

ANNEX I

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

No.: ICC-RoR221-01/14

Date: 28 February 2014

THE PRESIDENCY

Before: Judge Sang-Hyun Song, President
Judge Sanji Mmasenono Monageng, First Vice-President
Judge Cuno Tarfusser, Second Vice-President

Public Redacted

Decision on the “Application to the Presidency pursuant to regulation 221(1) of the Regulations of the Registry for judicial review of the Registrar’s Decision notified on 7 February 2014.”

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

Applicant
[REDACTED]

REGISTRY

Registrar
Mr. Herman von Hebel

Detention Section
Mr. Harry Tjonk

Others
[REDACTED], Counsel.

The Presidency of the International Criminal Court (“Court”) has before it an application notified on 7 February 2014 (“Application”) of [REDACTED] (“Applicant”) for judicial review of the Registrar’s decision dated 3 February 2014 (“Impugned Decision”), pursuant to regulation 221(1) of the Regulations of the Registry (“RoR”).¹ The Impugned Decision confirmed the decision of the Chief Custody Officer (“CCO”) dated 13 January 2014 (“CCO Decision”),² which rejected the Applicant’s complaint concerning the refusal by [REDACTED] (“Guard”) of the Applicant’s request to place a telephone call on 28 December 2013.³

The Application is dismissed for the reasons set forth below.

I. PROCEDURAL HISTORY

1. On 28 December 2013, the Applicant submitted a complaint to the CCO, pursuant to regulation 217(1) of the RoR.⁴ In his complaint, the Applicant argued that on 28 December 2013 at approximately [REDACTED], the Guard in the presence of another guard, refused his request to place a telephone call for reasons which “ne [lui] semblaient pas évidentes”.⁵ The Applicant further alleged that a guard had never previously refused a detainee’s request to place a telephone call due to the fact that it was only five minutes until cell closing time.⁶
2. On 13 January 2014, the Applicant’s complaint dated 28 December 2013 was rejected in the CCO Decision, pursuant to regulation 219 of the RoR.⁷ The CCO noted that prior to cell closing time on 28 December 2013, five detainees including the Applicant, made requests to place telephone calls. The CCO found that each request was dealt with in the order in which it was received, resulting in four telephone calls being placed. However, by the time it came to the Applicant’s turn, it was not “règlementairement possible” to place a telephone call for the Applicant.⁸ The CCO referred to regulation 173(2) of the RoR and noted that the placing of telephone calls

¹ ICC-RoR221-01/14-1-Conf-Exp-Anx1.

² ICC-RoR221-01/14-1-Conf-Exp-Anx3.

³ ICC-RoR221-01/14-1-Conf-Exp-Anx5.

⁴ ICC-RoR221-01/14-1-Conf-Exp-Anx2. The Applicant signed the complaint on 28 December 2013, and it was signed by the Acting CCO on 30 December 2013.

⁵ ICC-RoR221-01/14-1-Conf-Exp-Anx2, page 5.

⁶ ICC-RoR221-01/14-1-Conf-Exp-Anx2, page 5.

⁷ ICC-RoR221-01/14-1-Conf-Exp-Anx3.

⁸ ICC-RoR221-01/14-1-Conf-Exp-Anx3, page 5.

for detainees is subject to the daily schedule of the detention centre.⁹ The CCO maintained that the Applicant “aurait dû le constater” that it was not possible to grant his request to place a telephone call as it was cell closing time.¹⁰ For these reasons, the CCO found that the Applicant’s complaint was not justified.¹¹

3. On 18 January 2014, the Applicant submitted a request to the Registrar for a review of the CCO Decision, pursuant to regulation 220(1) of the RoR.¹² The Applicant argued that the CCO cannot impartially decide upon a dispute of facts between a guard and a detainee.¹³ The Applicant accepted that the requests to place the telephone calls of the four detainees before him were granted.¹⁴ However, he argued that after the Guard refused his request to place a telephone call, the detainee [REDACTED] (“Other Detainee”) subsequently “revient”, and his request to place a telephone call was granted.¹⁵ The Applicant argued that the Guard effectively abused his discretion in relying upon the daily schedule of the detention centre, as the basis for refusing the Applicant’s request.¹⁶
4. On 3 February 2014, the Registrar upheld the CCO Decision in the Impugned Decision.¹⁷ The Registrar noted that when considering detainee requests regarding the placing of telephone calls, there are a variety of “contraintes spécifiques au quartier pénitentiaire” which guards must take into account.¹⁸ The Registrar agreed with the CCO’s findings, and rejected the Applicant’s complaint.¹⁹
5. On 3 February 2014, the Applicant submitted the Application for judicial review of the Impugned Decision before the Presidency, pursuant to regulation 221(1) of the RoR.²⁰ Judicial review is sought on a number of grounds, and the Applicant argues that the Registrar did not consider “le vrai problème” [sic] under challenge.²¹ The Applicant argues:

⁹ ICC-RoR221-01/14-1-Conf-Exp-Anx3, page 5.

¹⁰ ICC-RoR221-01/14-1-Conf-Exp-Anx3, page 5.

¹¹ ICC-RoR221-01/14-1-Conf-Exp-Anx3, page 5.

¹² ICC-RoR221-01/14-1-Conf-Exp-Anx4. The Applicant signed the request to the Registrar on 18 January 2014, and it was signed by the Acting CCO on 20 January 2014.

¹³ ICC-RoR221-01/14-1-Conf-Exp-Anx4, page 3, para. 1.

¹⁴ ICC-RoR221-01/14-1-Conf-Exp-Anx4, page 3, para. 3.

¹⁵ ICC-RoR221-01/14-1-Conf-Exp-Anx4, pages 3-4, para.3.

¹⁶ ICC-RoR221-01/14-1-Conf-Exp-Anx4, page 4, para.4.

¹⁷ ICC-RoR221-01/14-1-Conf-Exp-Anx5.

¹⁸ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 4, para. 2.

¹⁹ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 4.

²⁰ ICC-RoR221-01/14-1-Conf-Exp-Anx1. The Applicant signed the Application on 3 February 2014, and it was notified on 7 February 2014.

²¹ ICC-RoR221-01/14-1-Conf-Exp-Anx1, pages 3-4, para.3.

- (i) There is no legal basis for guards to refuse detainee requests to place telephone calls;²²
 - (ii) The Registrar did not investigate the factual background sufficiently insofar as he did not examine the Other Detainee's version of events;²³
 - (iii) The Guard refused the Applicant's request to place a telephone call for reasons "que continue d'ignorer jusqu' à ce jour" [sic]. The Applicant alleges that the Guard "ne [le lui] avait jamais dit" that his request to place a telephone call was refused due to detention centre constraints, which were subsequently referred to by the CCO and the Registrar;²⁴
 - (iv) The Applicant was treated unfairly, as after refusing the Applicant's request, the Other Detainee "est arrivé" [sic] and his request to place a telephone call was granted.²⁵
6. On 14 February 2014, the Presidency ordered the Registrar to clarify by 4pm on 24 February 2014:
- (i) What reason, if any, the Guard provided to the Applicant for his refusal of the Applicant's request to place a telephone call on 28 December 2013; and
 - (ii) Whether the Other Detainee had a request to place a telephone call granted, after the Applicant's request was refused, on 28 December 2013.²⁶
7. On 19 February 2014, the Registrar filed clarifications, submissions, and two annexes in accordance with the order dated 14 February 2014.²⁷
8. On 20 February 2014, the Applicant sent a "Mémorandum à la particulière attention de Monsieur le Greffier de la Cour Pénale Internationale à la Haye" ("Applicant's Memorandum") which was addressed to the Registrar and copied to the Presidency, in which he *inter alia* made further submissions concerning this Application.²⁸

²² ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

²³ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

²⁴ ICC-RoR221-01/14-1-Conf-Exp-Anx1, pages 3-4, para.3.

²⁵ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 3.

²⁶ Presidency Order of 14 February 2014, ICC-RoR221-01/14-2-Conf-Exp.

²⁷ ICC-RoR221-01/14-3-Conf-Exp, ICC-RoR221-01/14-3-Conf-Exp-Anx1, and ICC-RoR221-01/14-3-Conf-Exp-Anx2.

²⁸ 2014/Pres/00068.

II. MERITS

A. Relevant parts of the Impugned Decision

9. With respect to the allegation that the Guard and the Applicant had provided different versions of events, the Registrar found that it was not necessary to dwell on the same.²⁹
10. The Registrar noted that when the telephone call procedure was modified so as to provide telephones in each detention centre cell, it was an anticipated possibility that last minute detainee requests to place telephone calls could be problematic, due to the guards' necessary preparations prior to calling the detainees to return to their cells.³⁰ At that stage, the Registrar had considered refusing detainee requests to place telephone calls 15 minutes before cell closing time.³¹ The Registrar noted that the anticipated problem, that not all last minute detainee requests could be granted, had arisen in the present case.³²
11. The Registrar indicated that insofar as they can, guards must place telephone calls for detainees. However, the Registrar noted that this is dependent on the immediate circumstances, and the number and arrival of detainees.³³ When considering detainee requests concerning the placing of telephone calls, the Registrar noted that there are a variety of "contraintes spécifiques au quartier pénitentiaire" which guards must take into account. These include the number of guards available, the number of requests for placing telephone calls, and the allotted time for calls.³⁴ The Registrar agreed with the CCO's findings concerning those constraints, and invited the Applicant to provide a greater amount of time in which to have telephone calls placed, and to avoid making last minute requests regarding the placing of telephone calls in the future.³⁵

B. Submissions of the Applicant

12. The Presidency notes that since the Applicant submitted his initial complaint on 28 December 2013, he has amended and added to his complaint regarding the incident which took place on 28 December 2013, in subsequent filings. However, it appears

²⁹ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 3, para. 1.

³⁰ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 3, para. 1.

³¹ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 3, para. 1.

³² ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 3, para. 1.

³³ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 4, para. 2.

³⁴ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 4, para. 2.

³⁵ ICC-RoR221-01/14-1-Conf-Exp-Anx5, page 4, para. 2.

that the Applicant is essentially challenging the Impugned Decision on the following three grounds:

- (i) The Registrar committed an error of law;
- (ii) The Registrar failed to act with procedural fairness; and
- (iii) The Registrar failed to take into account relevant factors.

13. The Applicant argues that there is no legal basis for guards to refuse detainee requests to place telephone calls.³⁶ The Applicant thus argues that the Registrar committed an error of law in reaching the Impugned Decision.

14. The Applicant argues that the Registrar did not investigate the factual background sufficiently insofar as he did not examine the Other Detainee's version of events.³⁷ The Applicant thus argues that the Registrar failed to act with procedural fairness in reaching the Impugned Decision.

15. The Applicant argues that:

- (i) The Guard never told the Applicant why his request to have a telephone call placed was refused;³⁸ and
- (ii) The Guard treated the Applicant unfairly, as after refusing the Applicant's request, the Other Detainee's request to place a telephone call was granted.³⁹

The Applicant thus argues that the Registrar failed to take into account relevant factors in reaching the Impugned Decision.

16. In relief, the Applicant asks the Presidency to quash the Impugned Decision.

C. Response of the Registrar

17. As well as providing the clarifications sought by the Presidency on 19 February 2014, the Registrar filed submissions in response to the Application.⁴⁰ The Registrar's clarifications and submissions concern the following four issues:

- (i) The management of the detention centre;⁴¹
- (ii) The Applicant's allegation that the Guard never told him why his request to place a telephone call on 28 December 2013 was refused;⁴²

³⁶ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

³⁷ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

³⁸ ICC-RoR221-01/14-1-Conf-Exp-Anx1, pages 3-4, para. 3.

³⁹ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 3.

⁴⁰ ICC-RoR221-01/14-3-Conf-Exp.

⁴¹ ICC-RoR221-01/14-3-Conf-Exp, pages 4-8, para.s 1-7.

⁴² ICC-RoR221-01/14-3-Conf-Exp, pages 6-7, para.s 5-6, and ICC-RoR221-01/14-3-Conf-Exp-Anx1.

(iii) The Applicant's allegation that he had been treated unfairly as after refusing the Applicant's request, the Other Detainee's request to place a telephone call was granted;⁴³ and

(iv) The nature and intent of the Application.⁴⁴

18. The Registrar submits that during the weekends, detention centre cells are closed from [REDACTED] until [REDACTED].⁴⁵ The Registrar notes that if a detainee makes a request to place a telephone call two minutes before cell closing time, there is no guarantee that his request will be granted. The Registrar submits that the guards might need to respond to another request to place a telephone call or to "un autre besoin lié à la vie du quartier pénitentiaire".⁴⁶ The Registrar notes that at cell closing time, the guards cannot continue to place telephone calls while also ensuring that all detainees return to their cells. The Registrar argues that the constraints of the detention centre are paramount and that the guards have the right to refuse requests to place telephone calls.⁴⁷ The Registrar submits that it is not at precisely cell closing time when detainees must return to their cells, but during the minutes prior to it.⁴⁸ The Registrar notes that this could result in no telephone calls being placed during the five or six minutes prior to cell closing time.⁴⁹
19. The Registrar submits that the Applicant was told by the Guard that his request to place a telephone call could not be granted as it was cell closing time.⁵⁰ The Registrar provides an excerpt of the guards' logbook dated 28 December 2013 in support of this factual account.⁵¹
20. The Registrar provides excerpts of the guards' telephone call log dated 28 December 2013,⁵² as well as excerpts of the relevant individual detainee telephone call logs dated 28 December 2013.⁵³ The Registrar notes that between [REDACTED] and [REDACTED], three telephone calls were successfully placed for three detainees. The Registrar notes that the Other Detainee's request to place a telephone call was granted at [REDACTED], in the order in which it was received. However the attempt to place his telephone call failed, and so the telephone call did not actually take place.

⁴³ ICC-RoR221-01/14-3-Conf-Exp, pages 5-8, para.s 4-7.

⁴⁴ ICC-RoR221-01/14-3-Conf-Exp, pages 8-10, para.s 8-9.

⁴⁵ ICC-RoR221-01/14-3-Conf-Exp, page 4, para. 1.

⁴⁶ ICC-RoR221-01/14-3-Conf-Exp, pages 4-5, para. 2.

⁴⁷ ICC-RoR221-01/14-3-Conf-Exp, pages 4-5, para. 2.

⁴⁸ ICC-RoR221-01/14-3-Conf-Exp, pages 7-8, para. 7.

⁴⁹ ICC-RoR221-01/14-3-Conf-Exp, page 5, para. 3.

⁵⁰ ICC-RoR221-01/14-3-Conf-Exp, page 6, para. 5.

⁵¹ ICC-RoR221-01/14-3-Conf-Exp-Anx1.

⁵² ICC-RoR221-01/14-3-Conf-Exp-Anx1.

⁵³ ICC-RoR221-01/14-3-Conf-Exp-Anx2.

The Registrar submits that nothing in the available information supports the Applicant's allegation that he was treated unfairly in that after his request to place a telephone call was refused, the Other Detainee's request was granted.⁵⁴

21. The Registrar raises concerns regarding the nature and intent of the Application.⁵⁵

The Registrar notes that the current procedure for detainees to communicate with persons outside of the detention centre far exceeds the minimum international human rights requirements. The Registrar argues that applications such as this Application threaten the detention centre's "philosophie d'une approche flexible qui incarne l'administration".⁵⁶ The Registrar submits that the Application is "frivole, téméraire et vexatoire",⁵⁷ and suggests that the Applicant should receive "une sanction exemplaire sous forme de dommages-intérêts au profit de la Cour".⁵⁸ The Registrar takes issue with the language and intent of the Application,⁵⁹ and submits that the Application is an abuse of process, and a waste of Court resources.⁶⁰

D. Determination of the Presidency

22. It is recalled that the judicial review of decisions of the Registrar concerns the propriety of the procedure by which the latter reached a particular decision and the outcome of that decision. It involves a consideration of whether the Registrar has: acted without jurisdiction, committed an error of law, failed to act with procedural fairness, acted in a disproportionate manner, taken into account irrelevant factors, failed to take into account relevant factors, or reached a conclusion which no sensible person who has properly applied his or her mind to the issue could have reached.⁶¹

⁵⁴ ICC-RoR221-01/14-3-Conf-Exp, page 7, para. 6.

⁵⁵ ICC-RoR221-01/14-3-Conf-Exp, pages 8-10, para.s 8-9.

⁵⁶ ICC-RoR221-01/14-3-Conf-Exp, page 8, para. 8.

⁵⁷ ICC-RoR221-01/14-3-Conf-Exp, pages 8-9, para. 9.

⁵⁸ ICC-RoR221-01/14-3-Conf-Exp, page 9, para. 9.

⁵⁹ ICC-RoR221-01/14-3-Conf-Exp, pages 8-10, para.s 8-9.

⁶⁰ ICC-RoR221-01/14-3-Conf-Exp, pages 8-10, para.s 8-9.

⁶¹ The standard of judicial review was defined by the Presidency in its decision of 20 December 2005, ICC-Pres-RoC72-02-5, para. 16, and supplemented in its decision of 27 November 2006, ICC-01/04-01/06-731-Conf, para. 24. See also the decision of the Presidency of 10 July 2008, ICC-Pres-RoC72-01-8-10, para. 20.

1. Whether the Registrar Committed an Error of Law

23. The Applicant argues in the Application that there is no legal basis for guards to refuse a detainee's request to place telephone calls,⁶² and thus the Registrar has committed an error of law in reaching the Impugned Decision.
24. The Presidency notes that the right of detainees to communicate with persons outside of the detention centre is established by regulation 99(1)(i) of the Regulations of the Court ("RoC"), which provides that "[e]very detained person shall be entitled...[t]o communicate by ... telephone with his or her family and other persons".
25. However, the right to communicate by telephone is not an absolute right. Regulation 99(2) of the RoC provides that the details concerning the right to communicate by telephone "shall be set out in the Regulations of the Registry, including any restrictions necessary in the interests of the administration of justice or for the maintenance of the security and good order of the detention centre."
26. Following on from the above provision, the Presidency notes that regulation 173 of the RoR elaborates upon detainees' telephone calls, and sets out a number of restrictions to which they are subject. One such restriction concerns the reasonable demands of the daily schedule of the detention centre. Pursuant to regulation 173(2) telephone calls "may be made by a detained person at any time between 9 a.m. and 5 p.m. (The Hague time) each day, subject to the reasonable demands of the daily schedule of the detention centre". The Presidency agrees that it is for the guards to use their discretion when assessing these "reasonable demands".
27. The Presidency finds that the RoC and the RoR provide a basis in law for guards to refuse detainee requests to place telephone calls. Furthermore, the Presidency finds that the CCO was correct to note that the placing of telephone calls is subject to the reasonable demands of the daily schedule of the detention centre, and that he was correct to rely on regulation 173(2) of the RoR.⁶³ In view of the foregoing, the Presidency finds that the Registrar did not commit an error of law when confirming the CCO Decision in the Impugned Decision.

⁶² ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

⁶³ ICC-RoR221-01/14-1-Conf-Exp-Anx3, page 5.

2. Whether the Registrar Failed to Act with Procedural Fairness

28. The Applicant submits that the Registrar did not investigate the factual background sufficiently insofar as he did not examine the Other Detainee's version of events.⁶⁴ The Presidency has considered the Registrar's submissions as well as the excerpts of the guards' telephone call log dated 28 December 2013,⁶⁵ and the excerpts of the relevant individual detainee telephone call logs dated 28 December 2013.⁶⁶ The Presidency notes that there is nothing to suggest that the requests to place telephone calls were not dealt with in the order in which they were received, and also notes that the Other Detainee's telephone call did not actually take place.⁶⁷ The Presidency thus finds that it was not necessary for the Registrar to examine the Other Detainee's version of events. In view of the foregoing, the Presidency finds that the Registrar did not fail to act with procedural fairness in reaching the Impugned Decision.

3. Whether the Registrar Failed to Take into Account Relevant Factors

29. The Applicant submits that the Guard never told him why his request to have a telephone call placed was refused.⁶⁸ The Presidency has considered the Registrar's submissions as well as the excerpt of the guards' logbook dated 28 December 2013.⁶⁹ The Presidency finds that the Applicant was clearly told the reasons as to why his request to place a telephone call was refused.

30. The Applicant submits that he was treated unfairly, as after refusing the Applicant's request, the Other Detainee's request to place a telephone call was granted.⁷⁰ The Presidency has considered the Registrar's submissions as well as the excerpts of the guards' telephone call log dated 28 December 2013,⁷¹ and the excerpts of the relevant individual detainee telephone call logs dated 28 December 2013.⁷² As set out above, the Presidency notes that there is nothing to suggest that the requests to place telephone calls were not dealt with in the order in which they were received, and also notes that the Other Detainee's telephone call did not actually take place.⁷³

⁶⁴ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 4.

⁶⁵ ICC-RoR221-01/14-3-Conf-Exp, page 7, para. 6, and ICC-RoR221-01/14-3-Conf-Exp-Anx1.

⁶⁶ ICC-RoR221-01/14-3-Conf-Exp-Anx2.

⁶⁷ ICC-RoR221-01/14-3-Conf-Exp, page 7, para. 6.

⁶⁸ ICC-RoR221-01/14-1-Conf-Exp-Anx1, pages 3-4, para. 3.

⁶⁹ ICC-RoR221-01/14-3-Conf-Exp, pages 6-7, para.s 5-6, and ICC-RoR221-01/14-3-Conf-Exp-Anx1.

⁷⁰ ICC-RoR221-01/14-1-Conf-Exp-Anx1, page 4, para. 3.

⁷¹ ICC-RoR221-01/14-3-Conf-Exp, page 7, para. 6, and ICC-RoR221-01/14-3-Conf-Exp-Anx1.

⁷² ICC-RoR221-01/14-3-Conf-Exp-Anx2.

⁷³ ICC-RoR221-01/14-3-Conf-Exp, page 7, para. 6.

31. In view of the foregoing, the Presidency finds that the Applicant's allegations are without merit, and thus the Registrar did not fail to take into account relevant factors in reaching the Impugned Decision.

32. The Presidency notes the Registrar's submissions regarding the nature and intent of the Application,⁷⁴ as well as the Registrar's suggestion that the Applicant should receive "une sanction exemplaire sous forme de dommages-intérêts au profit de la Cour", as the Application is "frivole, téméraire et vexatoire".⁷⁵ The Presidency also notes the Registrar's submission that one should not engage the Court in this way when the substantive rights of the detainee are not *prima facie* the object of a grave attack.⁷⁶ The Presidency concurs that detainees should "agir avec une certaine discipline et un sens des responsabilités" and "[l]a question du respect ne saurait donc être l'apanage du personnel pénitentiaire seul."⁷⁷ However, the Presidency emphasises that pursuant to regulation 221(1) of the RoR, the Applicant is entitled to seek a review of the Registrar's decision or order taken under regulation 220 or 220 *bis*. The Presidency finds that the Complaints Procedure outlined under Chapter 5, Section 5 of the RoR exists to protect the rights of detained persons and reflects the responsibility of the Court in this regard.
33. Turning to the Applicant's Memorandum sent on 20 February 2014, it is not apparent why it was copied to the Presidency.⁷⁸ The Applicant is respectfully reminded to adhere to the appropriate procedural requirements in the Complaints Procedure referred to above. The Presidency has considered the Impugned Decision on the basis of the documents properly filed up to and including 19 February 2014.

III. CLASSIFICATION

34. The Presidency notes that all documents in the instant Application have been filed confidentially and *ex parte* available only to the Registrar and [REDACTED], save for the annexes to the Registrar's submissions filed on 19 February 2014 which were filed confidentially and *ex parte* available only to the Registrar. The Presidency considers that, *prima facie*, there is no reason to retain the confidential *ex parte*

⁷⁴ ICC-RoR221-01/14-3-Conf-Exp, pages 8-10, para.s 8-9.

⁷⁵ ICC-RoR221-01/14-3-Conf-Exp, pages 8-9, para. 9.

⁷⁶ ICC-RoR221-01/14-3-Conf-Exp, page 9, para. 9.

⁷⁷ ICC-RoR221-01/14-3-Conf-Exp, page 8, para. 8.

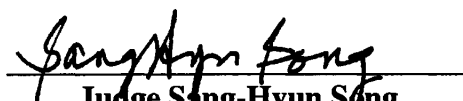
⁷⁸ 2014/Pres/00068.

classification of this decision, subject to ensuring the redaction of any information which may identify the Applicant, the Other Detainee, and the Guard.

35. If there is any factual and/or legal basis for retaining the confidential *ex parte* classification of this decision, or if there is any specific information requiring redaction before publication, the Applicant and the Registrar are each ordered to inform the Presidency thereof by 4 pm on 17 March 2014. The Presidency will thereafter rule on whether the classification should be maintained and, if necessary, the need for any redactions.

The Application is dismissed.

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


Judge Sang-Hyun Song
President

Dated this 28 February 2014

At The Hague, The Netherlands