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PRE-TRIAL CHAMBER I

Before: Judge Silvia Fernández de Gurmendi, Presiding Judge
Judge Hans-Peter Kaul
Judge Christine Van den Wyngaert

SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE

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

Public Document

**Requests to receive information and access documents for the effective
participation of victims at the confirmation of charges hearing**

Source: Office of Public Counsel for Victims

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

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I. PROCEDURAL HISTORY

1. On 23 November 2011, Pre-Trial Chamber III issued an arrest warrant for Mr. Laurent Gbagbo,¹ who was surrendered to the Court on 30 November 2011. During the first appearance of Mr. Gbagbo, on 5 December 2011, the Chamber scheduled the commencement of the confirmation of charges hearing for 18 June 2012.²

2. On 24 January 2012, the Single Judge of Pre-Trial Chamber I (the “Single Judge”) issued the “Decision establishing a disclosure system and a calendar for disclosure”,³ setting out, *inter alia*, the system governing disclosure for the purpose of the confirmation of charges hearing.

3. On 4 June 2012, the Single Judge issued a “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”⁴ by which she granted 139 victims the right to participate at the confirmation of charges hearing and in related proceedings.⁵ Furthermore, the Single Judge appointed a counsel from the Office of Public Counsel for Victims (the “Office”) as the Common legal representative of all the victims admitted to participate in the proceedings (the “Common Legal Representative”).⁶

4. On 5 June 2012, the Defence filed the “Requête de la Défense en report de l’audience de confirmation des charges prévue le 18 juin 2012”,⁷ in which it argued

¹ See the “Warrant of Arrest For Laurent Gbagbo” (Pre-Trial Chamber III), No. ICC-02/11-01/11-1, 23 November 2011.

² See the transcripts of the hearing of 5 December 2011, No. ICC-02/11-01/11-T-1-ENG, p. 8.

³ See the “Decision establishing a disclosure system and a calendar for disclosure” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-30, 24 January 2012.

⁴ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-138, 4 June 2012.

⁵ *Idem.*, p. 25.

⁶ *Ibid.*, p. 26.

⁷ See the “Requête de la Défense en report de l’audience de confirmation des charges prévue le 18 juin 2012”, No. ICC-02/11-01/11-140-Red2, 5 June 2012.

that the confirmation hearing scheduled for 18 June 2012 should be postponed, *inter alia*, because Mr Gbagbo's state of health made him unfit to stand trial.⁸

5. On 12 June 2012, the Single Judge issued the “Decision on the ‘Requête de la Défense en report de l’audience de confirmation des charges prévue le 18 juin 2012’”, postponing the confirmation of charges hearing to 13 August 2012.⁹

6. On 3 August 2012, the Single Judge issued the “Decision on issues related to the proceedings under rule 135 of the Rules of Procedure and Evidence and postponing the date of the confirmation of charges hearing”,¹⁰ in which it was decided that the “*commencement of the confirmation of charges hearing is postponed until the issue of Mr Gbagbo’s fitness to take part in the proceedings against him is resolved*”.¹¹

7. On 2 November 2012, the Chamber issued the “Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court” finding that Mr Gbagbo is fit to take part in the proceedings before this Court.¹²

8. On 12 November 2012, the Defence filed the “Demande d'autorisation d'interjeter appel de la ‘Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court’ (ICC-02/11-01/11-286-Conf)”¹³ which was rejected by the Chamber on 30 November 2012.¹⁴

⁸ *Idem*, paras. 21 to 60.

⁹ See the “Decision on the ‘Requête de la Défense en report de l’audience de confirmation des charges prévue le 18 juin 2012’” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-152-Red, 12 June 2012.

¹⁰ See the “Decision on issues related to the proceedings under rule 135 of the Rules of Procedure and Evidence and postponing the date of the confirmation of charges hearing” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-201, 3 August 2012 (dated 2 August 2012).

¹¹ *Idem*, p. 8.

¹² See the “Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court” (Pre-Trial Chamber I), No. ICC-02/11-01/11-286-Red, 2 November 2012.

¹³ See the “Demande d'autorisation d'interjeter appel de la ‘Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court’ (ICC-02/11-01/11-286-Conf)”, No. ICC-02/11-01/11-292-Corr-Red, 12 November 2012.

¹⁴ See “Decision on three applications for leave to appeal” (Pre-Trial Chamber I), No. ICC-02/11-01/11-307, 30 November 2012 (dated 29 November 2012).

9. On 17 December 2012, the Chamber issued the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto” deciding that the confirmation of charges hearing shall commence on 19 February 2013.¹⁵

10. On the same day, the Defence submitted its “Version publique expurgée de la demande d'autorisation d'interjeter appel de la décision de la Chambre Préliminaire I ‘on three applications for leave to appeal’ (ICC-02/11-01/11-307) et plus précisément de la décision de refus d'autoriser la défense à interjeter appel de la ‘Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court’ (ICC-02/11-01/11-286-Conf)’”.¹⁶

11. On 24 December 2012, the Defence filed an application for leave to appeal the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto”¹⁷ which was rejected by the Chamber on 14 January 2013.¹⁸

12. On 1st February 2013, the Defence submitted its list of evidence, contained in a confidential annex.¹⁹

13. On 6 February 2013, the Single Judge issued the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings”²⁰

¹⁵ See the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto” (Pre-Trial Chamber I), No. ICC-02/11-01/11-325, 17 December 2012 (dated 14 December 2012).

¹⁶ See the “Version publique expurgée de la demande d'autorisation d'interjeter appel de la décision de la Chambre Préliminaire I ‘on three applications for leave to appeal’ (ICC-02/11-01/11-307) et plus précisément de la décision de refus d'autoriser la défense à interjeter appel de la ‘Decision on the fitness of Laurent Gbagbo to take part in the proceedings before this Court’ (ICC-02/11-01/11-286-Conf)”, No. ICC-02/01-11/01-318-Red, 17 December 2012.

¹⁷ See the “Demande d'autorisation d'interjeter appel de la décision de la Chambre Préliminaire du 14 décembre 2012 ‘on the date of the confirmation of charges hearing and proceedings leading thereto’ (ICC-02/11-01/11-325)”, No. ICC-02/11-01/11-342, 24 December 2012.

¹⁸ See the “Decision on the ‘Demande d'autorisation d'interjeter appel de la décision de la Chambre Préliminaire du 14 décembre 2012 ‘on the date of the confirmation of charges hearing and proceedings leading thereto’ (ICC-02/11-01/11-325)’” (Pre-Trial Chamber I, Single Judge), 14 January 2013.

¹⁹ See the “Communication de l’inventaire des éléments de preuve à décharge de la Défense”, No. ICC-02/11-01/11-381, 1st February 2013.

by which she granted 60 victims the right to participate at the confirmation of charges hearing and in related proceedings. She also reiterated the right for the Common Legal Representative to make brief opening and closing statements at the confirmation of charges hearing and ordered the Registrar to provide the Common Legal representative with access to the public record of the case, including public evidence disclosed by the parties.²¹

14. Having reviewed the document and material available to her in preparation for the confirmation of charges hearing, the Common Legal Representative submits the following requests concerning access to documents necessary to the effective representation of her clients during the confirmation of charges hearing. Considering that the confirmation of charges hearing is scheduled to start on 19 February 2013, the Common Legal Representative respectfully requests the Chamber to treat these requests on an urgent basis.

II. REQUESTS

A. Request concerning the existence of an alibi or grounds for excluding criminal responsibility

15. In its “Decision on the date of the confirmation of charges hearing and proceedings leading thereto,”²² Pre-Trial Chamber I fixed a number of deadlines included “*to notify the Prosecutor no later than Friday, 1 February 2013*” “*in the event [the Defence] intends to raise the existence of an alibi or to raise a ground for excluding criminal responsibility pursuant to rule 79 of the Rules*”.²³

²⁰ See the “Second decision on victims’ participation at the confirmation of charges hearing and in the related proceedings” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-384, 6 February 2013.

²¹ *Idem*, p. 23.

²² See the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto”, *supra* note 15.

²³ *Idem*, p. 15.

16. The Common Legal Representative is aware that rule 79 of the Rules of Procedure and Evidence imposes such a disclosure only to the Prosecution. However, in order for the victims she represents to be able to participate meaningfully at the confirmation of charges hearing, the intention of the Defence shall also be notified to them.

17. Indeed, advancing an alibi or a ground for excluding criminal responsibility may result in a decision not to confirm the charges, thereby jeopardizing the holding of a trial and therefore affecting any entitlement to reparations, the personal interests of victims are engaged by these defences.

18. The Common Legal Representative submits that these defences would have a clear impact during the confirmation of charges hearing since they would be dealt with by the Chamber in determining whether there is sufficient evidence to establish substantial grounds to believe that the person committed each of the crimes charged in accordance with article 61(7) of the Rome Statute. In this regard, she submits that in accordance with the jurisprudence of the Court as developed by Pre-Trial Chambers I and II, *“the interests of victims are affected at [the stage of the confirmation of charges] since this is an essential stage of the proceedings which aims to determine whether there is sufficient evidence providing substantial grounds to believe that the suspects are responsible for the crimes included in the Prosecution Charging Document”*²⁴ and that *“the issue of the guilt or innocence of the persons charged before this Court is not only relevant, but it also affects the core interests of those granted the procedural status of victim in any case before the Court, because this issue is closely linked to the satisfaction of their right to justice”*.²⁵ Furthermore, *“the personal interests of victims may be affected by the*

²⁴ See the “Decision on the Set of Procedural Rules Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/07-474, 13 May 2008, par. 45. See also the “Decision on the Requests for Leave to Appeal the Decision on the Application for Participation of Victims in the Proceedings in the Situation” (Pre-Trial Chamber I, Single Judge), No. ICC-02/05-121, 6 February 2008, pp. 6, 8 and 9.

²⁵ See the “Decision on the Set of Procedural Rules Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/07-474, 13 May 2008, paras. 31-44. See also the “Decision on victims’ applications for participation a/0010/06, a/0064/06 to

*outcome of the Confirmation Hearing to the extent that it aims at either (i) confirming the charges against those responsible for perpetrating the crimes which caused them to suffer harm; or (ii) declining to confirm the charges for those not responsible for such crimes, so that the search for those who are criminally liable can continue".*²⁶

19. Pursuant to article 64(3)(c) of the Rome Statute, echoed by rule 79(4) of the Rules of Procedure and Evidence, the Chamber may provide for disclosure of documents and/or information not previously disclosed. Therefore, the Chamber may direct the Defence to inform the Common Legal Representative of any evidence which tends to exonerate the suspect of his criminal responsibility. Moreover, the founding texts of the Court make it clear that *"the [suspect]'s right to a fair trial is not necessarily compromised by the imposition on him or her of an obligation to reveal in advance and in appropriate circumstances, details of the defences and the evidence to be presented, and the issues that are to arise."*²⁷ Although the use of this discretionary power by a relevant Chamber shall never derogate from the suspect's right to a fair and impartial hearing in which his rights are fully safeguarded,²⁸ the Common Legal Representative contends that ordering such a disclosure to her does not jeopardize the rights of the suspect but instead ensure a fair and expeditious conduct of the proceedings.

20. Incidentally, the Common Legal Representative also notes that the Prosecution has requested the Chamber to foresee, in the context of the confirmation of charges hearing, a discussion on the interpretation of the mode of liability

a/0070/06, a/0081/06 to a/0104/06 and a/0111/06 to a/0127/06" (Pre-Trial Chamber II), No. 02/04-01/05-252, 10 August 2007, paras. 9 to 11.

²⁶ See the "Decision on 138 applications for victims' participation in the proceedings" (Pre-Trial Chamber I), No. ICC-01/04-01/10-351, 11 August 2011, par. 23.

²⁷ See the "Decision on disclosure by the defence" (Trial Chamber I), No. ICC-01/04-01/06-1235-Corr-Anx1, 20 March 2008, par. 31.

²⁸ *Idem*, paras. 33-35. See also in this sense the "Decision on the starting date of the defence presentation of evidence and related issues" (Trial Chamber III), No. ICC-01/05-01/08-2221, 24 May 2012, par. 11.

prescribed in article 25(3)(a) of the Rome Statute.²⁹ The Defence has also indicated that it intends to address the mode of liability.³⁰ And the Single Judge considered that the Chamber would be assisted by submissions on the issue by the parties and the OPCV during the confirmation of charges hearing.³¹

21. Consequently, the Common Legal Representative contends that the personal interests of the victims she represents would be affected by the existence of an alibi or the raising of grounds for excluding criminal responsibility pursuant to rule 79 of the Rules of Procedure and Evidence and the existence thereof shall be notified to her as soon as possible, in advance for the confirmation of charges hearing.

B. Request concerning the notification of certain confidential documents

22. In its Decision on participation of victims, the Pre-Trial Chamber has ruled that in relation to confidential filing *“the Chamber retains the option to decide on a case-by-case basis, either proprio motu or upon receipt of a specific and motivated request whether to grant the Common Legal Representative of victims access thereto”*.³²

23. The Common Legal Representative also observes that, in accordance with “internationally recognized human rights”,³³ the requirements of a “fair trial” mean, *inter alia*, that *“each party must be afforded a reasonable opportunity to present his case [...] under conditions that do not place him at a substantial disadvantage vis-à-vis his*

²⁹ See the Annex 1 to the “Soumission de l’Accusation du Document de notification des charges, de l’Inventaire des éléments de preuve à charge et des Tableaux des éléments constitutifs des crimes”, No. ICC-02/11-01/11-124-Anx1-Red, 16 May 2012, par. 58.

³⁰ See the “Observations de la Défense concernant le calendrier de l’audience de confirmation des charges”, No. ICC-02/11-01/11-128, 23 May 2012, par. 16.

³¹ See the “Decision on the schedule for the confirmation of charges hearing and related Issues” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-186, 16 July 2012, par. 16.

³² See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”, *supra* note 4, par. 57.

³³ In this regard, see “Judgment on the Prosecutor’s Application for extraordinary Review of Pre-Trial Chamber I’s 31 March 2006 Decision denying Leave to Appeal”, No. ICC-01/04-168, 13 July 2006, para. 11.

opponent”³⁴ and that, moreover, the right to a “fair trial” means that each participant must have “the opportunity not only to make known any evidence needed for his claims to succeed, but also to have knowledge of and comment on all evidence adduced or observations filed with a view to influencing the court’s decision”.³⁵

24. In this regard, the Common Legal Representative recalls principle 21 of the Basic Principles on the Role of Lawyers, pursuant to which:

*“[i]t is the duty of the competent authorities to ensure lawyers access to appropriate information, files and documents in their possession or control in sufficient time to enable lawyers to provide effective legal assistance to their clients. Such access should be provided at the earliest appropriate time”.*³⁶

25. In light of the principles of the aforementioned “internationally recognized human rights”, the Common Legal Representative submits that she should be granted access to a certain number of documents currently classified confidential in the record of the case. She would otherwise be deprived of the possibility of representing the interests of her clients effectively and appropriately at the confirmation of charges hearing.

³⁴ See ECHR, *Dombo Beheer B.V. v. The Netherlands*, Application No. 14448/88, Judgment of 27 October 1993, para. 33.

³⁵ See ECHR, *Mantovanelli v. France*, Application No. 21497/93, Judgment of 18 March 1997, para. 33; *Nideröst-Huber v. Switzerland*, Application No. 18990/91, Judgment of 18 February 1997, para. 24; *Lobo Machado v. Portugal*, Application No. 15764/89, Judgment of 20 February 1996, para. 31; *Vermeulen v. Belgium*, Application No. 19075/91, Judgment of 20 February 1996, para. 33; *Ruiz-Mateos v. Spain*, Application No. 12952/87, Judgment of 12 September 1993, para. 63.

³⁶ Voir les Principes de base relatifs au rôle du barreau, adoptés par le huitième Congrès des Nations Unies pour la prévention du crime et le traitement des délinquants qui s'est tenu à La Havane (Cuba) du 27 août au 7 septembre 1990. Ce document est disponible sur le site Internet du Haut Commissariat aux droits de l'homme des Nations Unies à l'adresse suivante :

<http://www2.ohchr.org/french/law/barreau.htm>.

1. *Access to the rule 89 Observations*

26. The Common Legal Representative requests the Chamber to grant her access to the observations filed by the Prosecution and the Defence pursuant to rule 89 of the Rules of Procedure and Evidence and related to her clients.³⁷ The notification of observations by the parties to the relevant legal representative or common legal representative is established in the practice of the Court. So far the Office has received notification of the observations of the parties filed confidentially concerning its clients even before a decision on their participation was issued by the relevant Chamber.³⁸

2. *Access to Defence List of Evidence and information on viva voce witnesses, if any*

27. The Single Judge of Pre-Trial Chamber I already established the modalities of participation of the victims during the confirmation of charges hearing³⁹ enumerating their procedural rights. But she also specified that “[these procedural rights are],

³⁷ See the “OBSERVATIONS DE LA DÉFENSE DU PRÉSIDENT GBAGBO CONCERNANT LES 57 DEMANDES INDIVIDUELLES ET LES 6 DEMANDES COLLECTIVES DE PARTICIPATION DES VICTIMES (ICC/ICC-02/11-01/11-122)”, No. ICC-02/11-01/11-133, 28 May 2012 and in particular the relevant parts of the confidential annexes. See also the “Prosecution’s observations on the victims’ applications to participate in the proceedings”, No. ICC-02/11-01/11-131, 28 May 2012 in particular the relevant parts of confidential Annex A. See also, the “Prosecution’s observations on victims’ applications a/20183/12, a/20071/12 and a/20058/12 including supplementary information to participate in the proceedings”, No. ICC-02/11-01/11-358, 17 January 2013 in particular the relevant parts of confidential Annex A; the “Observations de la défense portant sur les cinquante-neuf demandes de participation de victimes transmises par le Greffe le 18 décembre 2012 en version expurgée (ICC-02/11-01/11-366)”, No. ICC-02/11-01/11-382, 5 February 2013 in particular the relevant parts of the confidential annex; and the “Prosecution’s observations on 59 victims’ applications to participate in the proceedings”, No. ICC-02/11-01/11-377, 25 January 2013 in particular the relevant parts of confidential Annex A.

³⁸ In this regard, see *e.g.*, the “Observations de la défense sur le 82 demandes de participation à la procédure en qualité de victimes”, No. ICC-01/05-01/08-1009-Conf-Anx A, 15 November 2010, the “Observations de la défense sur les 280 demandes de participation à la procédure en qualité de victimes », No. ICC-01/05-01/08-1082-Conf-Anx A, 8 December 2010. See also, the “Prosecution’s Observations on 105 Applications for Victims’ Participation in the Proceedings”, No. ICC-01/09-01/11-178-Conf, 11 July 2011.

³⁹ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”, *supra* note 4.

*however, without prejudice to any other right that the Chamber may grant to them in the course of the proceedings either proprio motu or upon specific and motivated request submitted by the legal representative”.*⁴⁰ In this context, the Common Legal Representative notes that the Single Judge did not rule on the possibility to question witnesses or to challenge the evidence and consequently she will have a possibility to put requests before the Chamber demonstrating that the relevant course of action is justified and directly affects the personal interests of the victims she represents by the issue(s) under consideration.⁴¹ This is also perfectly in line with rule 91(3) of the Rules of Procedure and Evidence which provides that “[w]hen a legal representative attends and participate in accordance with this rule, and wishes to question a witness [...], the legal representative must make an application with the Chamber”.

28. However, the possibility for the Common Legal Representative to be able to do so is currently impaired by the absence of notification of the Defence list of evidence on the one hand, and the knowledge of whether the Defence intends to call *viva voce* witnesses at the hearing on the other hand. Indeed, absent of these document and information, the Common Legal Representative is not in a position to identify specific issues arising out of the confirmation of charges hearing which may affect the personal interests of the victims, so as to justify a request for access to material or to question a witness.

29. Therefore, the Common Legal Representative further requests access to the Defence list of evidence filed on 1 February 2013.⁴² In order to justify the level of confidentiality of the Annex, the Defence simply argues that it contains information related to confidential documents. The Common Legal Representative contends that

⁴⁰ *Idem*, par. 47.

⁴¹ In this sense, see the “Decision on Victims’ Participation at the Confirmation of the Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber II, Single Judge), No. ICC-01/09-01/11-249, 5 August 2011, paras. 99-100. See also the “Decision on Victims’ Participation at the Confirmation of the Charges Hearing and in the Related Proceedings” (Pre-Trial Chamber II, Single Judge), No. ICC-01/09-02/11-267, 26 August 2011, paras. 116-117

⁴² See the “Communication de l’inventaire des éléments de preuve à décharge de la Défense”, *supra* note 19.

access to the list of evidence on which the Defence will rely at the confirmation of charges hearing is a necessary prerequisite for her to be able to represent the interests of the participating victims. The Common Legal Representative contends that granting her access to the Defence list of evidence will just enable her to request access to documents related to the personal interests of her clients and does not aim at obtaining all material listed thereon since she is plainly aware that some of the documents the Defence intends to rely at the confirmation of charges hearing is of no pertinence with the personal interests of the victims. Incidentally, the Common Legal Representative notes that amongst the documents that appeared to be listed on the Defence list, she has had access to several public documents by virtue of the disclosure made by the Defence itself. This means that not all documents listed in the Defence list of evidence are confidential and therefore the classification of the entire list as confidential is not justified. Therefore, the Common Legal Representative sees no reason why she could not be provided with, at the very least, a redacted version of said list.

30. Along the same line, the Common Legal Representative contends that she should be made aware of the intention of the Defence to call *viva voce* witnesses at the hearing⁴³ as well as, where applicable, the areas to be addressed by such witnesses. Absent of these basic information, the Common Legal Representative is prevented from participating in the evidentiary debate held at the confirmation of charges hearing⁴⁴ and will not be able to submit “*specific and motivated request[s]*” to question potential relevant witnesses in conformity with the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”.⁴⁵

⁴³ Pursuant to the “Decision on the date of the confirmation of charges hearing and proceedings leading thereto”, *supra* note 15, this intention is known to the Chamber since 22 January 2013.

⁴⁴ In this sense, see the “Decision on the Set of Procedural Rules Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case” (Pre-Trial Chamber I, Single Judge), No. ICC-01/04-01/07-474, 13 May 2008, par. 151.

⁴⁵ See the “Decision on Victims’ Participation and Victims’ Common Legal Representation at the Confirmation of Charges Hearing and in the Related Proceedings”, *supra* note 4, par. 47 and *supra* par. 27.

For the foregoing reasons, the Common Legal Representative respectfully requests the Pre-Trial Chamber

- to order the Defence to inform the Common Legal Representative about the existence of an alibi or grounds for excluding criminal responsibility;
- to order the notification to the OCPV of the Prosecution and Defence Observations filed in accordance with Rule 89 of the Rules of Procedure and Evidence and related to her clients;
- to order the notification to the OPCV of the Defence list of evidence or, in the alternative, the notification of the redacted list of evidence;
- to order the Defence to communicate to the Common Legal Representative its intention to call *viva voce* witnesses and, in the affirmative, to inform her of the areas to be covered by their respective testimonies.



**Paolina Massidda
Principal Counsel**

Dated this 7th day of February 2013

At The Hague, The Netherlands