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TRIAL CHAMBER VI

Before: **Judge Robert Fremr, Presiding Judge**
Judge Kuniko Ozaki
Judge Chang-ho Chung

SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO

IN THE CASE OF
THE PROSECUTOR v. BOSCO NTAGANDA

Public Document
Former child soldiers' response to the "Request on behalf of Mr Ntaganda seeking access to all *inter partes* confidential material in the *Lubanga* case"

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 child soldiers (the "Legal Representative") hereby submits these observations in response to the "Request on behalf of Mr Ntaganda seeking access to all *inter partes* confidential material in the *Lubanga* case'" (the "Defence Request" or the "Request") pursuant to Regulation 24(2) of the Regulations of the Court.[1]

2. The interests of the victims are directly affected by the Defence Request. Although the Request is titled "access to all *inter partes* confidential materials", the Defence, in effect, seeks access to a much broader set of materials, which includes all exhibits classified as confidential; all *inter partes* confidential filings; all confidential decisions issued by Trial Chamber I; and all transcripts of private and closed sessions. Not only does the Defence Request impact on the victims' right to see the perpetrators held accountable for the crimes committed through fair and expeditious judicial proceedings, but it also affects their safety as it seeks to modify the protective measures applicable to certain witnesses who benefit from dual status in the present case.

3. The Legal Representative submits that the Defence Request (i) does not comply with the requirements of "due diligence"; (ii) lacks a proper legal basis and misapprehends the scope of the Prosecution's disclosure obligation; (iii) fails to identify with specificity the relevant materials sought; and (iv) overlooks confidentiality requirements and the protective measures already in place. Moreover, and particularly given the specific nature of the ICC's procedural framework, it is submitted that the ICTY jurisprudence relied upon by the Defence is of little relevance to the resolution of the issues raised in the Defence Request.

[1] See the "Public redacted version of 'Application on behalf of Mr Ntaganda seeking leave to appeal the Chamber's oral decision on 'Urgent motion on behalf of Mr Ntaganda seeking immediate adjournment of the proceedings until the necessary conditions are in place to ensure a fair trial''", No. ICC-01/04-02/06-709-Red, 10 July 2015 (the "Defence Request").

4. The Defence Request must therefore be rejected.

II. SUBMISSIONS

a) The Defence Request is ill-timed

5. The Defence seeks access to virtually the entire confidential record of the case of the *Prosecutor v. Thomas Lubanga* at a time the opening of the trial is imminent. It contends that the requested material is "*essential*" because there is "*a good chance that access to this evidence will materially assist the applicant in preparing his case*".[2] The Defence further submits that "*the information contained therein is relevant to the factual findings upon which the* Lubanga *Judgement is based, which are intrinsically related to charges brought by the Prosecution*".[3]

6. The timing of the Defence Request raises suspicions as to the actual motives behind the filing of said Request. Nowhere in the Defence Request is there an explanation as to why it could not be made earlier. It is indeed common knowledge that the Prosecution had initially sought the arrest of Mr. Lubanga and Mr Ntaganda on the basis of factual allegations that are closely interrelated.[4] The Defence therefore knew about the existence of overlaps between the *Lubanga* and the *Ntaganda* cases at least since 28 April 2008, date on which the first arrest warrant against Mr Ntaganda was unsealed.[5] Yet, the Defence does not offer any valid reason as to why it submitted its Request at this specific juncture, *i.e.* 2 months before the opening of the trial. Moreover, it is difficult to view the Defence Request in isolation from its

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[2] See the Request, *supra* note 1, para. 21.
[3] *Idem*, para. 23.
[4] See the "Decision on the Prosecutor's Application for Warrants of Arrest, Article 58" (Pre-Trial Chamber I), No. ICC-01/04-520-Anx2, 10 February 2006 (incorporated in the record of this case under No. ICC-01/04-02/06-20-Anx2 on 21 July 2008).
[5] See the "Mandat d'arrêt", No. ICC-01/04-02/06-2-US, 22 August 2006 (reclassified as public pursuant to Decision ICC-01/04-02/06-18 dated 28/04/2008).

previous and repeated applications to postpone the opening of trial. In these applications, as is the case with the present Request, the Defence reiterated its claim that it does not have adequate facilities and time to prepare for trial.

7. Viewed in this context, the Request not only lacks any showing of "due diligence" but may be reasonably perceived as a further delaying tactic by the Defence. Indeed, the Appeals Chamber has previously condemned similar actions, particularly if they affect the conduct of the proceedings. It stated that

> "[i]*n the view of the Appeals Chamber, a party to a proceeding who claims to have an enforceable right must exercise due diligence in asserting such a right. This is as it should be in order for the Trial Chamber to take account of the interests of the other parties to and participants in the proceedings and of the statutory injunction for fairness and expeditiousness. The Appeals Chamber agrees with the Trial Chamber's conclusion that parties must submit motions that have repercussions on the conduct of the trial in* "a timely manner"*. The Appeals Chamber interprets* "timely manner" *to mean that the parties must act within a reasonable time*".[6]

8. Moreover, pursuant to article 64(2) of the Rome Statute, the Trial Chamber has the power to regulate the conduct of the parties and participants so as to ensure, among other considerations, that such conduct does not cause undue delay to the proceedings. In this regard, the Appeals Chamber recalled that "[t]*he legislative history of article 64 (2) shows that the delegates believed that a fair and expeditious trial would not only preserve the rights of the accused but would prevent a guilty person from delaying the proceedings, as well as secure the early release of an innocent person and enable the court to properly manage the case to achieve an early resolution of the case*".[7]

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[6] See the "Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 20 November 2009 Entitled "Decision on the Motion of the Defence for Germain Katanga for a Declaration on Unlawful Detention and Stay of Proceedings" (Appeals Chamber), No. ICC-01/04-01/07-2259 OA 10, 12 July 2010, para. 54.

[7] *Idem*, note 101.

9. Given the large amount of material sought, granting the Request would result in an undue delay of the proceedings, without any appreciable benefit for the Defence. Indeed, as further explained *infra*, the Defence has failed to establish that the material sought is relevant to its preparation for trial. Moreover, when deciding upon the Request, the Chamber must also take into account the interests of other parties and participants in the proceedings, and in particular the interests of the victims. Victims' interests have already been prejudiced by the accused's failure to surrender himself to the Court and to comply with the arrest warrant issued against him. Their interests have further been adversely affected by the successive postponements of the date for the commencement of trial. Given these extended periods of judicial inactivity, which are mainly the product of the accused's conduct, it would be unreasonable to allow the Defence to further delay the proceedings by seeking access to material that is neither precisely identified nor essential for the preparation of its case.

10. Accordingly, the Legal Representative respectfully requests the Chamber to dismiss the Defence Request for failure to comply with the due diligence requirement.

b) The Request lacks a legal basis and misapprehends the scope of the Prosecution's disclosure obligation

11. The Legal Representative further submits that the Request lacks proper legal basis and misapprehends the scope of the Prosecution's disclosure obligation.

12. At the outset, the Legal Representative notes that the Defence improperly frames the Request as an application for "*variation of protection* [sic] *measures*" pursuant to Regulation 42 of the Regulations of the Court.[8] Elsewhere in the Request, the Defence contends that access to the requested material is "*essential*" for the

[8] See the Defence Request, *supra* note 1, p. 8.

preparation of its case, and that such access is warranted on the basis of Rule 77 of the Rules of Procedure and Evidence and the jurisprudence of the *ad hoc* tribunals.[9] In doing so, the Defence conflates two distinct issues: on the one hand, the Defence's right to have access to the requested material resulting from the Prosecution's disclosure obligation, and on the other hand, the Defence's right to subsequently seek the variation of protective measures implemented in respect of the material disclosed, where applicable. In other words, Regulation 42 of the Regulations of the Court can only be invoked with respect to items already disclosed or to material falling under the Court's disclosure regime. This is clear from the language of Regulation 42(2) of the Regulations of the Court, which provides that "[w]*hen the Prosecutor discharges disclosure obligations in subsequent proceedings, he or she shall respect the protective measures as previously ordered by the Chamber* […]".

13. The Defence Request for variation of protective measure can therefore only be considered by the Chamber in the context of an *inter partes* disclosure process. Accordingly, if the documents to which access is sought do not fall within the Court's disclosure regime, the Defence may not seek variation of the protective measures applied. This is consistent with the Appeals Chamber's holding in the *Banda & Jerbo* case, according to which *"it is only if it is first determined that information is material to the preparation of the defence that consideration may be given to whether any restrictions on the right of disclosure should be imposed pursuant to the Statute and rules 81 and 82"*.[10]

14. Furthermore, the Legal Representative takes issue with the Defence's contention that it is entitled, as of right, to be provided with material beyond what is required under the Court's disclosure regime. The Legal Representative submits that the Defence misapprehends the scope and nature of the Prosecution disclosure

[9] *Idem*, p. 3 and paras. 8 and 9.
[10] See the "Judgment on the appeal of Mr Abdallah Banda Abakaer Nourain and Mr Saleh Mohammed Jerbo Jamus against the decision of Trial Chamber IV of 23 January 2013 entitled Decision on the Defence's Request for Disclosure of Documents in the Possession of the Office of the Prosecutor" (Appeals Chamber), No. ICC-02/05-03/09-501 OA 4, 28 August 2013, para. 35.

obligation. Pursuant to Rule 77 of the Rules of Procedure and Evidence, the Defence is entitled to receive all relevant material, provided that such material is "*in possession or control of the Prosecutor*". This includes all relevant material from the *Lubanga* case which is in the possession or control of the Prosecution at any stage of the proceedings. However, the Court's procedural framework does not provide for the disclosure of documents emanating from other organs of the Court, such as confidential hearing transcripts or confidential decisions issued by other Trial Chambers.

15. Contrary to the ICTY case law which permits a party "*to seek material from any source*",[11] the jurisprudence of the ICC rejected such an approach, limiting the Defence's access exclusively to the material in the possession or control of the Prosecution. Indeed, Trial Chamber I clarified the nature and scope of the disclosure obligation:

> "*the disclosure regime established by the Rome Statute framework is imposed on the prosecution alone: in other words, no positive obligation is imposed on the other organs of the Court, the defence or the participants to disclose exculpatory material to the Defence under Article 67(2) of the Statute, Rule 77 or rule 76 of the Rules*".[12]

16. Furthermore, this finding is consistent with the Appeals Chamber's ruling in the *Katanga* & *Ngudjulo* case in which it determined that the victims participating in trial proceedings are under no obligation to disclose relevant material in their possession to the Defence unless it is adduced as evidence before the Chamber. In particular, the Appeals Chamber stated

> "*As recalled by the Trial Chamber and conceded by the accused neither the Statute nor the Rules of Procedure and Evidence expressly oblige the Victims to disclose exculpatory evidence to the accused. Rather, article 67(2) of the Statute provides that the Prosecutor is responsible for disclosure of exculpatory evidence. In addition, rule 77*

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[11] See ICTY, *The Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-04-75-T, "Decision on Goran Hadžić's Motion for Access to Confidential Material in the Stanišić and Simatović case", 1 November 2013, para. 6.

[12] See the "Decision on the defence application for disclosure of victims applications" (Trial Chamber I), No. ICC-01/04-01/06-1637, 21 January 2009, para. 10.

of the Rules of Procedure and Evidence provides that the Prosecutor shall disclose evidence which is material for the preparation of the defence, and evidence which will be used at trial […]. *The Appeals Chamber considers that imposing a general disclosure obligation on the victims to disclose evidence to the accused would disregard the limited role of the victims of presenting their views and concerns where their personal interests are affected. Bearing in mind the differing roles of the victims* vis-à-vis *the parties, the Appeals Chamber finds that it is inappropriate simply to extend the Prosecutor's statutory obligations to victims participating in the proceedings*".[13]

17. It is therefore clear that the disclosure obligation, as construed and applied at the ICC, lies solely with the Prosecution. It does not extend to material emanating from the other organs of the Court such as Chambers' transcripts and decisions, or material filed by other participants in the proceedings, such as submissions from victims or other defence teams.

18. Notwithstanding the difference in the statutory framework and basic disclosure obligations, this interpretation of the scope of disclosure also finds support in the ICTY jurisprudence. For instance, it was ruled that the "*responsibility for disclosing exculpatory material rests on the Prosecution alone*".[14] It was further specified that "[d]*etermining what material meets Rule 68 disclosure requirements falls within the Prosecution's discretion and its initial assessment of such exculpatory material must be done in good faith. The Prosecution must actively review the material in its possession for exculpatory material. However, Rule 68 (i) does not impose an obligation on*

[13] 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 OA 11, 16 July 2010, paras. 72 and 75. In the same vein, the Appeals Chamber stated in the *Lubanga* case that "*the regime for disclosure contained in rules 76 to 84 of the Rules which sets out the specific obligations of the parties in this regard is a further indicator that the scheme is directed towards the parties and not victims*". See the "Judgment on the appeals of The Prosecutor and The Defence against Trial Chamber I's Decision on Victims' Participation of 18 January 2008" (Appeals Chamber), No. ICC-01/04-01/06-1432 OA 9, 11 July 2008, paras. 93 and 104.
[14] See ICTY, *Prosecutor v. Karemera* et al., "Decision on Interlocutory Appeal Regarding the Role of the Prosecutor's Electronic Disclosure Suite in Discharging Disclosure Obligations, Case No. ICTR-98-44-AR73.7, 30 June 2006, para. 9.

the Prosecution to search for materials which it does not have knowledge of, nor does it entitle the Defence to embark on a fishing expedition to obtain exculpatory material."[15] Likewise, ICTY Trial Chamber I determined that "[t]*he Prosecution remains obligated at all times to disclose to the Defence any material* <u>*in its possession and actual knowledge*</u> *which might, wholly or in part, be exculpatory."*[16]

c) The Defence fails to identify with specificity the relevant documents sought and seeks to engage in a "fishing expedition"

19. In addition to the lack of legal basis, the Defence Request fails to identify with sufficient clarity and details the type of documents sought. Rather, it seeks to have bulk access to "*all confidential material*" of the *Lubanga* case.[17] The use of such broad categories is clearly inconsistent with the specificity requirement.[18] The Defence fails to establish how *all* the documents requested could be of relevance to the issues arising in the present case. In this respect, the Legal Representative submits that the Defence Request for access is unfounded, disproportionate and merely constitutes a "fishing expedition".

20. The Defence recognises that, for a party to gain access to certain material, it must at least (1) "*describe the documents sought by their nature as clearly as possible*" and (2) "*show that such access is likely to materially assist its case*".[19] For these conditions to be met, a certain level of specificity is required. The underlying purpose of the specificity requirement is to allow the Court to identify the requested documents for the purpose of determining their relevance to the case of the requesting party.

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[15] See ICTY, *Prosecutor v. Dragomir Milošević*, "Decision on motion seeking disclosure of rule 68 material", Case No. IT-98-29/l-A, 7 September 2012, para. 5. See also *idem*, para. 10 and *Prosecutor v. Bralo*, "Decision on Motions for Access to *Ex Parte* Portions of the Record on Appeal and for Disclosure of Mitigating Material", Case No. IT-95-17-A, 30 August 2006, para. 29.
[16] See ICTY, *Prosecutor v. Dragomir Milošević*, "Decision on motion seeking disclosure of rule 68 material", Case No. IT-98-29/l-A, 7 September 2012, para. 6 (emphasis added).
[17] See the Defence Request, *supra* note 1, para. 9.
[18] See for instance, ICTY, *The Prosecutor V. Dario Kordić and Mario Čerkez*, "Decision on the request of the Republic of Croatia for review of a binding order", Case No. IT-95-14/2-A, 9 September 1999, para. 38.
[19] See the Defence Request, *supra* note 1, para. 9.

Particularising and identifying the requested material, as well as specifying the nexus between the present case and the case from which the material emanates, are essential considerations for the assessment of the merits of the Request.

21. The mere existence of "*geographical, temporal or otherwise material overlaps*" between two cases does not render all documents in one case relevant to the other. These overlaps can at best only establish the relevance of certain materials from the original case. However, the possible shared features or characteristics do not provide the Defence with an automatic right to have access to almost the entire confidential record of another case without any further justification or description. The Defence cannot simply assert that it is entitled to the confidential record of another case in order to prepare for trial. Rather, it is required to identify the specific sets of materials to which it does not have access to, and show that such documents fall under the Court's disclosure regime. Therefore, "[i]*f an accused or convicted person wishes to show that the Prosecution is in breach of its* [disclosure] *obligations, he/she must identify specifically the materials sought, present a* prima facie *showing of their probable exculpatory nature, and prove the Prosecutor's custody or control of the materials requested*".[20] These requirements are elementary procedural rules aimed at ensuring the efficiency and fairness of judicial proceedings. In the absence of any allegation by the Defence that the Prosecution improperly withheld relevant material, the Defence Request falls squarely within what the ICTY case law qualifies as a "fishing expedition".[21] The prohibition against "fishing expeditions" applies *mutatis mutandis* to proceedings before the ICC. Indeed, pursuant to article 64 of the Rome Statute, the Trial Chamber must "*adopt such procedures as are necessary to facilitate the fair and expeditious conduct of the proceedings*". As Judge Hunt correctly pointed out:

> "*A party is not entitled to have an order made to produce material so that he may have access to it simply because he says that the material*

[20] *Idem*, para. 7.

[21] See ICTY, *Prosecutor v. Dragomir Milošević*, "Decision on motion seeking disclosure of rule 68 material", Case No. IT-98-29/l-A, 7 September 2012, para. 5; *Prosecutor v. Bralo*, "Decision on Motions for Access to *Ex Parte* Portions of the Record on Appeal and for Disclosure of Mitigating Material", Case No. IT-95-17-A, 30 August 2006, para. 29.

> *is relevant to an issue in the trial or appeal. He is not entitled to conduct a fishing expedition – in the sense that he wishes to inspect the material in order to discover whether he has any case at all to make. An order to produce is not the same as obtaining discovery against a party. Before obtaining an order for access to material where his right to such access is not conceded, the party must identify expressly and precisely the legitimate forensic purpose for which access is sought. It should be demonstrated that it is likely - or at least "on the cards" – that the material produced will materially assist the case of the party seeking access. Something is "on the cards" if there is a good chance that it will happen"*.[22]

22. The Defence has therefore the burden to identify and establish the relevance of *every single* material requested to the issues raised in the context of the present proceedings.[23] Since the Request failed to properly identify the material sought, of the specificity requirement is far from being met. For the same reason, the Legal Representative submits that the Defence also failed to establish that such "*access is likely to materially assist its case*".

d) The Request overlooks the requirements of confidentiality and existing protective measures

23. Assuming *arguendo* that the material requested by the Defence is disclosable, the Request must still be dismissed on the ground that it omits to take into account the requirements of confidentiality and existing protective measures.

24. As a preliminary matter, the Legal Representative notes that the Defence does not distinguish between *ex parte* confidential materials and *inter partes* confidential

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[22] See ICTY, *Prosecutor v. Zejnil Delalić et al.*, "Separate Opinion of Judge David Hunt on Motion By Esad Landzo to preserve and provide evidence", Case No. IT-96-21-T – ICTY, 22 April 1999, para. 4.
[23] See the "Judgment on the appeal of Mr Abdallah Banda Abakaer Nourain and Mr Saleh Mohammed Jerbo Jamus against the decision of Trial Chamber IV of 23 January 2013 entitled Decision on the Defence's Request for Disclosure of Documents in the Possession of the Office of the Prosecutor", *supra* note 10 , para. 42.

materials for the purpose of making this Request.[24] A careful review of the jurisprudence of the *ad hoc* tribunals shows, however, that different standards have been applied in relation to each type of materials.[25] The ICTY Appeals Chamber ruled that "[w]*ith regard to* ex parte *confidential material, however, in light of the special considerations of confidentiality relating to such material, the Appeals Chamber has required applicants to meet a higher standard in order to establish a legitimate forensic purpose. It is not* […] *the Prosecution's burden to show why such disclosure should not occur, but rather the Applicant's burden to justify such disclosure*".[26] Accordingly, *ex parte* material from the *Lubanga* case may not be communicated to the Defence unless compelling reasons are provided to justify access to each of the items requested. Given that the Defence did not provide any specific reasons as to why it should be granted access to *ex parte* material, the Request for access must be construed as being limited to *inter partes* confidential material only.

25. In respect of *inter partes* material, the Legal Representative recalls that the Defence is already in possession of all incriminating, exculpatory or otherwise relevant material from the *Lubanga* case as a result of the completion of the Prosecution disclosure. Existing restrictions on the disclosed material are justified under rule 81 and 82 of the Rules of Procedure and Evidence as well as Regulation 42 of the Regulations of the Court. Any access to material which goes beyond the Prosecution disclosure obligation would inevitably pose significant security risks to victims, witnesses as well as third parties. Access to such material, especially at this particular stage of the proceedings, would further undermine the protective

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[24] Although the Request is titled "access to all *inter partes* confidential material", the Defence actual Request also relates to "*all confidential decisions*" and "*all confidential submissions of the parties and participants*". See the Defence Request, *supra* note 1, para. 12.

[25] See ICTY, *The Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Mićo Stanišić's Motion for Access to All Confidential Materials in the *Brđanin* Case (Appeals Chamber), 24 January 2007, para. 14; *The Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Zdravko Tolimir's Motion for Disclosure of Confidential Materials from the *Karadžić* Case (Trial Chamber), 12 January 2012, para. 10.

[26] See ICTY, *The Prosecutor v. Radoslav Brđanin*, Case No. IT-99-36-A, Decision on Mićo Stanišić's Motion for Access to All Confidential Materials in the *Brđanin* Case (Appeals Chamber), 24 January 2007, para. 14.

measures already implemented by either this Chamber or the then Trial Chamber I. These considerations are particularly relevant in the context of the present proceedings.

26. As the Appeals Chamber recalled, access to material by the Defence is a two-step inquiry

> *"First, it must be determined whether the "books, documents, photographs and other tangible objects" in question are "material to the preparation of the defence". If they are, they must, subject to what follows, be disclosed to the defence. This determination of materiality must be carried out before turning to the second stage of the process in rule 77, which provides that the obligation to allow inspection of objects which are material to the preparation of the defence is "subject to the restrictions on disclosure as provided for in the Statute and in rules 81 and 82". Such restrictions include where steps have been taken to ensure the confidentiality of information, in accordance with articles 54, 57, 64, 72 and 93 of the Statute and the protection of the safety of individuals in accordance with article 68 of the Statute. In such circumstances, the information shall not be disclosed except in accordance with those articles of the Statute. Thus, it is only if it is first determined that information is material to the preparation of the defence that consideration may be given to whether any restrictions on the right of disclosure should be imposed pursuant to the Statute and rules 81 and 82".*

27. The Request for access completely overlooks the Court's statutory obligation to ensure the protection of victims and witnesses. It also fails to recognise that the Defence access to confidential material is not an unfettered right, but rather, it must be based on "*a balance between the right of* [requesting party] *and the need to guarantee the protection of witnesses*".[27] Moreover, not only is there an obligation to ensure the safety and protection of witnesses and victims, but the Court is also required to assess the impact that the disclosure would have on the security of third parties. The Appeals Chamber previously held that Rule 81(4) of the Rules of Procedure and Evidence should be read to include the protection of "*persons at risk on account of the*

[27] See ICTY, *The Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18-T, Decision on Zdravko Tolimir's Motion for Disclosure of Confidential Materials from the *Karadžić* Case (Trial Chamber), 12 January 2012, para. 8.

activities of the Court".[28] The fulfilment of these conditions requires a case-by-case assessment, which cannot be undertaken in relation to the entire confidential record of a case. Performing such an assessment in the abstract, or without considering the actual or potential relevance of the documents sought, would be contrary to the principle of judicial economy.

FOR THESE REASONS, the Legal Representative respectfully requests the Chamber to dismiss the Defence Request.

Sarah Pellet
Common Legal Representative of the
Child soldiers

Dated this 5th Day of August 2015

In Brittany, France

[28] See the "Judgement 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" (Appeals Chamber), No. ICC-01/04-01/07-475 OA, 13 May 2008, par. 56.