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TRIAL CHAMBER IX

Before: Judge Bertram Schmitt, Presiding Judge
Judge Péter Kovács
Judge Raul C. Pangalangan

SITUATION IN UGANDA

IN THE CASE OF *THE PROSECUTOR v. DOMINIC ONGWEN*

Public

**Common Legal Representative's Response to the Prosecution's request to disclose
lesser redacted versions of 43 victims' applications**

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 Representative¹ opposes the Prosecution's request to disclose to the Defence lesser redacted versions of victims' applications.

2. The Common Legal Representative argues that the request by the Prosecution to be authorised to disclose to the Defence the family relationship and the identity of participating victims not being dual status individuals should be rejected because this category of information does not necessarily fall under rule 77 of the Rules of Procedure and Evidence and the Prosecution has not adequately justified the reasons for such disclosure.

3. Moreover, the Common Legal Representative submits that before disclosing said information to the Defence, the previous consent of the persons concerned should be sought.

4. In the alternative, should the Chamber consider that the information has to be disclosed to the Defence in some circumstances, the Common Legal Representative submits that the relevant criteria for such a disclosure should be clearly identified.

¹ See the "Decision on contested victims' applications for participation, legal representation of victims and their procedural rights" (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-350, 27 November 2015, p.19; the "Decision on issues concerning victims' participation" (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-369, 15 December 2015, pp. 10-11; the "Second decision on contested victims' applications for participation and legal representation of victims" (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-384, 24 December 2015, pp. 20-22; the "Decision concerning 300 Victim Applications and the Deadline for Submitting Further Applications" (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-543, 26 September 2016, para. 8 and p. 5; and the "Decision Concerning 610 Victim Applications (Registry Report ICC-02/04-01/15-544) and 1183 Victim Applications (Registry Report ICC-02/04-01/15-556)", No. ICC-02/04-01/15-586, 4 November 2016, p. 8, paras. 9, 15 and 16.

II. PROCEDURAL HISTORY

5. On 4 March 2015 the then Single Judge of Pre-Trial Chamber II issued the Decision establishing principles on Victims' Application Process² authorising redactions to the identities of the victims. On 3 September 2015, the new Single Judge issued the Decision concerning the procedure for admission of victims in the case, maintaining the system of redactions already in place.³

6. On 27 November 2015 and 24 December 2015, the Single Judge issued the decisions authorising victims to participate in the proceedings, ordering, *inter alia*, the Legal Representatives of Victims⁴ to consult with their clients (not being dual status individuals) on whether they consent to the disclosure of their identities to the Defence.⁵

7. On 31 May 2016, the Legal Representatives of Victims filed a joint submission on the non-disclosure of victims' identities to the Defence.⁶

8. On 17 June 2016, the Single Judge of Trial Chamber IX issued the decision on the non-disclosure of victims' identities to the Defence.⁷

9. On 31 May 2017, by e-mail, the Prosecution requested the Chamber to be authorised to disclose to the Defence lesser redacted versions of three applications

² See the "Decision establishing Principles on the Victims' Application Process" (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-205, 4 March 2015.

³ See the "Decision concerning the procedure for admission of victims to participate in the proceedings in the present case" (Pre-Trial Chamber II, Single Judge), No. ICC-02/04-01/15-299, 3 September 2015.

⁴ For the purposes of this submission the term refers to the Common Legal Representative and to the external Legal Representatives. Separately, the Common Legal Representative and the Legal Representatives.

⁵ See the "Decision on contested victims' applications for participation, legal representation of victims and their procedural rights" and the "Second decision on contested victims' applications for participation and legal representation of victims", *supra* note 1, para. 36 and para. 23 respectively.

⁶ See the "Joint Submissions on the non-disclosure of victims' identities", No. ICC-02/04-01/15-451, 31 May 2016.

⁷ See the "Decision on Disclosure of Victims' Identities" (Trial Chamber IX, Single Judge), No. ICC-02/04-01/15-471, 17 June 2016.

forms of victims believed to be family members of two dual status individuals.⁸ In the same e-mail, the Prosecution requested to hear submissions in the matter at the commencement of the hearing the following morning.

10. On 1 July 2017, by e-mail, the Defence indicated that it did not oppose the request;⁹ while the Legal Representatives of the Victims indicated being in a position of presenting arguments in the matter at the morning's hearing.¹⁰

11. On the same day, just before the start of the hearing, the Chamber, by e-mail, issued a decision authorising the Prosecution to disclose the three applications forms, after having indicated that it did not require submissions in the matter.¹¹

12. After the issuance of the ruling, the Common Legal Representative indicated to the Chamber, by e-mail, that the Legal Representatives of the Victims should have been heard in the matter before the decision was taken.¹²

13. On 6 and 8 June 2017, the Chamber authorised the Prosecution to further disclose to the Defence lesser redacted versions of two victims' application after the respective Legal Representative indicated that the persons concerned consented to such disclosure.¹³

14. On 9 June 2017, the Prosecution filed its request to disclose lesser redacted versions of 43 victims' applications (the "Request").¹⁴

15. On 12 June 2017, the Legal Representatives filed their response to the Request (the "LRV submissions").¹⁵

⁸ See the e-mail from Senior Trial Lawyer sent on 31 May 2017 at 21:27.

⁹ See the e-mail from the Legal Assistant for the Defence sent on 1 June 2017 at 04:17.

¹⁰ See respectively the e-mail from the Common Legal Representative sent on 1 June 2017 at 07:00 and the e-mail from the Legal Assistant for the Legal Representatives sent the same day at 08:48.

¹¹ See the e-mail from the Legal Officer of the Chamber sent on 1 June 2017 at 09:22.

¹² See the e-mail from the Common Legal Representative sent on 1 June 2017 at 09:42.

¹³ See the e-mail from the Legal Officer of the Chamber sent 6 June 2017 at 10:02 and the one sent on 8 June 2017 at 14:31.

¹⁴ See the "Prosecution's request to disclose lesser redacted versions of 43 victims' applications", No. ICC-02/04-01/15-862, 9 June 2017.

III. SUBMISSIONS

1. *Preliminary remarks*

16. The Common Legal Representative notes that the issue of the disclosure of lesser redacted versions of application forms of participating victims is a very sensitive and important matter which involves careful consideration of the security and well-being of the individuals concerned, as well as a balance exercise between the rights and interests of the participating victims and the rights of the Accused.

17. Therefore, the Legal Representatives of Victims should have been heard before the Chamber took its first decision in the matter, also considering that victims lack any remedy against a ruling contrary to their interests. This is even more true considering that the Prosecution, in its original request transmitted by e-mail, did not explicitly articulate the reasons justifying the disclosure of lesser redacted versions of application forms to the Defence and simply indicated that the identifying information and the relationship of family members - who are participating victims - of dual status individuals should be disclosed under rule 77 of the Rules of Procedure and Evidence (the "Rules"). The Prosecution added, in support of its request, that the issue has been considered in light of a recent confidential Appeals Chamber's decision and the practice adopted in other ongoing trials.

18. In relation to the last reasons adduced, the Common Legal Representative notes that it was inappropriate for the Prosecution to rely on a decision still classified confidential to which the other party and participants have no access. In this regard, the Common Legal Representative – who on the contrary has access to said decision by virtue of her appointment in the *Gbagbo and Blé Goudé* case – indicates that said

¹⁵ See the "Legal Representatives of Victims' Response to the 'Prosecution's request to disclose lesser redacted versions of 43 victims' applications'", No. ICC-02/04-01/15-865 + Conf-Exp-Anx, 12 June 2017 (the LRV's submissions").

ruling does not relate to the issue of the disclosure of family relationships between participating victims and dual status individuals. Moreover, the practice of the Chambers of the Court in ongoing proceedings is not unanimous and is based on a case-by-case assessment.

19. The Common Legal Representative wishes also to express her concern in relation to the procedure followed by the Prosecution in addressing the matter. While she understands that the Prosecution acted in good faith in addressing the Chamber as soon as it became aware of the issue and made an effort to minimize the inconvenience because of the commencement of the testimony of witnesses concerned by said issue, the Prosecution should have, as a matter of principle, informed and consulted with the relevant legal representatives on such an important issue affecting the interests of their clients before addressing the Chamber.

20. Finally, the Common Legal Representative indicates that she fully shares the submissions already filed by the Legal Representatives and joins their request to the Chamber to ensure that the victims' views and concerns are heard on any matter which clearly affects their personal interests.

21. In light of the observations filed by the Legal Representatives, the Common Legal Representative will address additional arguments in favour of dismissing the Request and will develop submissions in the alternative should the Chamber decide to grant said Request.

2. The family link and the identity of participating victims not being dual status individuals do not necessarily fall under rule 77

22. The Prosecution adopts a general approach according to which certain redacted information in the victims' applications is "material to Defence preparation" under rule 77 of the Rules. The Request, however, does not refer to any jurisprudence identifying victims' applications as potentially falling within the scope of said provision.

23. Under rules 76 and 77 of the Rules, the Prosecution has a disclosure obligation for all incriminatory material in the form of witness statements and any other material to be relied on at trial, as well as an obligation to disclose material falling under the ambit of article 67(2) of the Rome Statute (the “Statute”) and to permit inspection of all items that are material to the preparation of the Defence under rule 77 of the Rules.¹⁶

24. The Common Legal Representative submits that the family link and the identity of participating victims who are not dual status individuals do not necessarily fall under any of the categories mentioned in the preceding paragraph, and must therefore not be automatically disclosed to the Defence.

25. Chambers have determined that the victims’ application forms provide information only for the purposes of substantiating the status of victims in the case, and are not evidence on either points of facts or law.¹⁷ Only the statements of dual status individuals are evidence in the case and, as such, must be disclosed to the Defence.

26. In this regard, article 68(1) of the Statute and rule 81(4) of the Rules are meant to ensure that the involvement of victims in the proceedings does not lead to a situation where their safety and well-being are put at stake, all the more where they do not provide testimony.¹⁸

27. The Appeals Chamber has clarified that the Prosecution disclosure obligations under rule 77 refer to “[e]vidence which is material for the preparation of the defence, and

¹⁶ See, *inter alia*, the “Decision on the Protocol establishing a redaction regime” (Pre-Trial Chamber I, Single Judge), No. ICC-02/11-01/11-737, 15 December 2014, para. 8.

¹⁷ See, *inter alia*, the “Decision on the Defence Requests in Relation to the Victims’ Applications for Participation in the Present Case” (Pre-Trial Chamber II, Single Judge), No. ICC-01/09-01/11-169, 8 July 2011, paras. 9-10 and 18. See also the “Decision on the confirmation of charges” (Pre-Trial Chamber I), No. ICC-01/04-01/07-717, 1 October 2008, para. 232; and the transcript of the confirmation of charges hearing of 7 July 2008, No. ICC-01/04-01/07-T-44-ENG ET, p. 14, line 25 to p. 15, line 3.

¹⁸ See the “Decision on the Protocol establishing a redaction regime”, *supra* note 16, para. 49.

evidence which will be used at trial".¹⁹ In this sense, victims' applications cannot be considered as evidence collected by the Prosecution during its investigations and thus as falling automatically within the scope of rule 77 of the Rules.²⁰

28. Victims' applications "[u]nlike evidence collected to support or challenge the substantive criminal charges in the case, [...] are administrative in nature and [...] are intended to serve a limited purpose: to provide the Chamber with a basis for determining whether individual victims should be permitted to participate in the proceedings".²¹

29. Accordingly, the Request *de facto* attempts to broaden the meaning of rule 77 by making a far-reaching interpretation inconsistent with the relevant jurisprudence of the Court on this issue.

¹⁹ 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 OA11, 16 July 2010, para. 72 (emphasis added). By the same token, see also the "Decision on the Evidence Disclosure System and Setting a Timetable for Disclosure between the Parties" (Pre-Trial Chamber III), No. ICC-01/05-01/08-55, 31 July 2008, paras. 48 and 51.c) (emphasis added): "[r]ule 77 of the Rules puts an obligation on the Prosecutor to disclose to the defence three types of evidence: any books, documents, photographs and other tangible objects in the possession or control of the Prosecutor, (i) which are material to the preparation of the defence or (ii) are intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing or (iii) were obtained from or belonged to the person charged [...] evidence in the possession or control of the Prosecutor, which is material to the preparation of the defence or is intended for use by the Prosecutor as evidence for the purposes of the confirmation hearing or was obtained from or belonged to the person charged and which are subject to inspection pursuant to rule 77 of the Rules"; and the "Decision on the 'Defence Request for Disclosure of Article 67(2) and Rule 77 Materials'" (Pre-Trial Chamber II, Single Judge), No. ICC-01/09-01/11-196, 14 July 2011, para. 8 (emphasis added): "[t]he Single Judge recalls that the scope of disclosure of evidence between the parties is regulated by various provisions of the applicable law [...] For the purposes of the present decision, article 67(2) of the Statute and rule 77 of the Rules are of particular relevance [...] if a piece of evidence is to be disclosed to the Defence by virtue of any such provision it is not necessary that an order to this effect be issued by the Chamber".

²⁰ See the "Public redacted version of the First decision on the prosecution and defence requests for the admission of evidence, dated 15 December 2011" (Trial Chamber III), No. ICC-01/05-01/08-2012-Red, 9 February 2012, paras. 100-101 (emphasis added): "[t]he probative value of the application forms is limited. Unlike evidence collected to support or challenge the substantive criminal charges in the case, the application forms are administrative in nature and are created through a relationship of confidence between a potential victim and the Registry of the Court". See also transcripts of the Confirmation of Charges Hearing held on 7 July 2008, *supra* note 17.

²¹ See the "Public redacted version of the First decision on the prosecution and defence requests for the admission of evidence, dated 15 December 2011", *supra* note 20, para. 100.

30. While generally relying on the practice in other ongoing proceedings, the Prosecution fails to bring to the attention of the Chamber recent rulings clarifying the scope of rule 77 of the Rules.²²

31. In particular, Trial Chamber VI in the *Ntaganda* case recently rejected several Defence requests to lift redactions in the statements and victims' applications of dual status individuals because the redacted identities of the persons concerned did not form part of the expected testimony of the dual status individual and/or were not relevant to any known issue in the case.²³ The Common Legal Representative argues that if disclosure is not automatically granted even for dual status individuals, *a fortiori*, it cannot be automatic for victims participating in the proceedings (not being dual status individuals).

32. Applying the *Ntaganda* approach in order to determine whether the redacted information in the victims' applications is "*relevant to a material fact in the case*", the Common Legal Representative submits that the Request fails to substantiate how said information is relevant for the Defence.

33. In this regard, the Common Legal Representative submits that the Prosecution blurs the different nature and purpose of a victim application *vis-à-vis* a witness statement, and relies on an approach to rule 77 of the Rules that nullifies the difference between these two types of documents.

34. As noted by different Chambers of the Court and recalled *supra*, victims' applications are not evidence on which the Chamber may rely in order to reach a

²² See the "Decision on the 'Prosecution's Submissions on the Trial Chamber's 8 December 2009 Oral Order Requesting Updating of the In-Depth-Analysis Chart'" (Trial Chamber III), No. ICC-01/05-01/08-682, 29 January 2010, para. 25: "*Counsel has an obligation to bring any apparently relevant jurisprudence to the attention of the Bench, particularly in a situation such as the present when the prosecution was one of the parties involved in a nearly identical issue before another Chamber of this Court*".

²³ See the transcript of the hearing held on 12 April 2016, No. ICC-01/04-02/06-T-79-CONF-ENG ET (open session), p. 3, lines 6-9, 15-17, 22-25; and p. 4, line 24 to p. 5, line 6.

decision pursuant to article 74 of the Statute but are administrative documents which are used to decide on their participation (and eventual reparation's request).²⁴ Accordingly, if the Prosecution deems that the information contained in a victim application may be relevant to determine the criminal responsibility of the accused, it must investigate said information and collect the relevant *evidence* for eventual disclosure to the Defence.²⁵

35. The Request is inconsistent with the approach identified *supra*. The Prosecution requests authorisation to lift the redactions in the applications of victims on the basis that they relate to individuals "who are close relatives of trial witnesses who give evidence at the four charged locations".²⁶ However, the Request does not indicate whether the Prosecution has investigated the "claims" made by these specific victims in their applications, as required by the jurisprudence of the Court prior to the disclosure of the resulting *evidence* to the Defence. More importantly, the Prosecution does not intend to call the concerned victims to testify at trial.

36. In these circumstances, the request to lift the redactions is only based on the fact that a family relationship is alleged between the victims participating in the proceedings and the dual status individual.

37. The Common Legal Representative reiterates that, as recently found by Trial Chamber VI in the *Ntaganda* case,²⁷ the reference to a family relationship between

²⁴ See, *inter alia*, the "Decision on the Defence Requests in Relation to the Victims' Applications for Participation in the Present Case" *supra* note 17, paras. 9-10. See also para. 28 and related footnote.

²⁵ *Idem*, paras. 11-13.

²⁶ See the e-mail from Senior Trial Lawyer, *supra* note 8.

²⁷ See the transcript of the hearing held on 12 April 2016, *supra* note 23, p. 3, lines 6-9: "With respect of the names of the parents of the witness, the Chamber notes that this is included only as a part of the witness' biographical information, forms no part of the witness' narrative of events and that their identity does not appear to be of relevance to any known issue in the case" and p. 4, line 24 to p. 5, line 6: "Having reviewed the relevant material related to the outstanding redaction appearing on page 5 of the witness' victim participation application form, the Chamber considers that the individual whose identity is redacted does not appear to form part of the witness' narrative of events. Accordingly, on the basis that the individual is of no relevance to any known issue in the case, the Chamber decides that the redaction may be maintained at this stage. However, the

victims cannot be accepted as the sole basis to lift redactions to their identifying information pursuant to rule 77 of the Rules. To do otherwise would lead to the erroneous assimilation of victims' applications with witness statements.

38. Moreover, this approach could potentially lead to lifting of redactions to the identity of a significant number of victims participating in the proceedings. The duty of the Court to protect the safety, well-being and privacy of the victims would then be compromised.

39. Therefore, the lifting of the redactions applied to the identity and/or the family relationship of the concerned victims as indicated in the Request lacks any legal basis and must be rejected.

40. In addition to not being required by rule 77 of the Rules, lifting the redactions currently applied as identified in the Request should not be ordered because it would enable the Defence to identify directly or by way of inference victims who are not dual status individuals and who wish to remain anonymous.²⁸

41. In this regard, the Common Legal Representative refers to her arguments developed *infra* on the need for the concerned victims to provide their consent *before* the Prosecution discloses their identities to the Defence either directly or by way of inference.²⁹

42. In conclusion, the Common Legal Representative submits that the approach adopted by the Prosecution in the Request is contrary to both the jurisprudence of the Court and the Chamber's duty to protect victims and witnesses which lies at the core of the Statute, as repeatedly stated by the Chambers.

Prosecution must take steps prior to the witness testifying to ascertain whether this individual is indeed a child of the witness, and if not, must lift the redaction to the name of this individual forthwith".

²⁸ See the "Joint Submissions on the non-disclosure of victims' identities", *supra* note 6.

²⁹ See paras. 43-48.

3. The disclosure of the identifying information of participating victims not being dual status individuals requires the previous consent of the person concerned

43. Assuming *arguendo* that the redacted information referred to in the Request does fall under rule 77 of the Rules, the Common Legal Representative submits that the disclosure of said information requires the prior consent of the persons concerned.

44. In fact, regulation 42(3) of the Regulations of the Court expressly provides that once protective measures have been ordered, “[t]he Chamber shall seek to obtain, whenever possible, the consent of the person in respect of whom the application to rescind, vary or augment protective measures has been made”.

45. The practice of the Court in this regard is consistent. In the *Lubanga* case for instance, Trial Chamber I instructed the legal representatives of victims to consider seeking the consent of the individuals concerned prior to the communication of their identities to the Defence.³⁰ In this regard, the Chamber ordered the Registry to contact the relevant individuals to establish their views on disclosure of their identities to the Defence and thereafter to report to the Chamber.³¹

46. In turn, in the *Katanga and Ngudjolo Chui* case, Trial Chamber II considered itself bound to implement regulation 42 of the Regulations of the Court *proprio motu*, concerning the non-disclosure of the identity of an individual for whom another Chamber had authorised protective measures and who still did not consent to the disclosure of his identity.³²

³⁰ See, *inter alia*, the “Redacted Decision on the disclosure of information from victims’ application forms (a/0225/06, a/0229/06 and a/0270/07)” (Trial Chamber I), No. ICC-01/04-01/06-2586-Red, 4 February 2011, paras. 15 and 43.

³¹ *Idem*.

³² See the “Decision concerning the situation of Witness 270 (regulation 42 of the Regulations of the Court) (Trial Chamber II), No. ICC-01/04-01/07-1448-tENG, 1st September 2009.

47. Similarly, other Chambers routinely verified whether the individuals concerned in fact gave their consent to disclose their identities to the Defence.³³

48. In this regard, the Common Legal Representative informs the Chamber that the potential disclosure of their identities to the Accused remains a matter of the outmost concern for the victims. The fact that the Prosecution moved for the disclosure of this information to the Defence against the victims' stated wish to remain anonymous further increases the anxiety of many of the victims participating in the proceedings.

4. In the alternative, criteria must be clearly identified for the disclosure of the information

49. In the alternative, should the Chamber consider that the information is disclosable to the Defence, the Common Legal Representative supports the Legal Representatives' suggestion that relevant criteria for such a disclosure should be clearly identified.

50. In particular, the Common Legal Representative shares the concerns related to the need to narrowly define the concept of "family members" in the Ugandan context in order to avoid broadening the category of individuals eventually concerned³⁴; the concern related to the fact that members of the same family are often unaware of the fact that another family member will testify before the Court;³⁵ the further essential concern related to the fact that victims of gender based crimes, notably, may have not informed their partners of what happened to them and consequently of the fact that

³³ See, *inter alia*, the "Decision on the prosecution's applications for lifting redactions on material relating to Witnesses 307 and 484 pursuant to Regulation 42 of the Regulations of the Court" (Trial Chamber IV), No. ICC-02/05-03/09-393, 12 September 2012, para. 9. See also the "Redacted Decision on the variation of protective measures under Regulation 42 on referral from Trial Chamber II on 22 July 2009" (Trial Chamber II), No. ICC-01/04-01/07-1448-tENG, 1st September 2009, para. 5.

³⁴ See the LRV's submissions, *supra* note 15, para. 34

³⁵ *Idem*, para. 48.

they are witnesses and/or participating victims in the case;³⁶ the need to carefully verify whether family relationships exist and not to automatically infer such a link on the basis of their names alone.³⁷

51. In this regard, the Common Legal Representative proposes the following cumulative criteria to be applied: 1) the relationship justifying disclosure must be a first-degree family relationship; 2) the family member is mentioned in the witness' statement and therefore the Defence is already aware of this information; 3) the family member witnessed the event and was an adult at the time of the events.³⁸

52. As for the procedure, the Common Legal Representative proposes that the Prosecution should always primarily consult with the relevant legal representative on the proposed lifting of redactions and engage in a bilateral discussion. Indeed, legal representatives are normally best placed to convey the concerns of their clients because they maintain regular contact with them.

53. Finally, the Common Legal Representative indicates that 11 out of the 43 individuals concerned by the Request are represented by her and that she is currently verifying their position. However, before contacting them, the Common Legal Representative will wait for the Chamber's instructions on the matter in order to avoid creating unnecessary stress and anxiety to the individuals concerned.

³⁶ In this regard, the Common Legal Representative recalls that article 68(1) of the Statute indicates the involvement in sexual or gender violence as a specific factor to be taken into account when deciding on appropriate measures to protect the safety and well-being of victims and witnesses.

³⁷ See the LRV's submissions, *supra* note 15, paras. 39, 45 and 46.

³⁸ See the "Decision on Defence request for lifting of redactions in documents related to victims authorised to present evidence" (Trial Chamber VI), No. ICC-01/04-02/06-1835, 24 March 2017, para. 12: *"The Chamber has no reason to doubt that the four children were not born at the time of the events. The Chamber therefore agrees with the LRV that their identities are not material to the preparation of the Defence. Accordingly, the relevant redactions may be maintained"*.

IV. CONCLUSION

For the foregoing reasons, the Common Legal Representative respectfully requests the Chamber to reject the Prosecution's Request to disclose lesser redacted versions of 43 victims' applications. In the alternative, the Common Legal Representative respectfully requests the Chamber to rule that the consent of the relevant person must be sought, whenever possible, before disclosure of the identifying information, to adopt the criteria indicated by the Legal Representatives for said disclosure and to order the Prosecution to proceed in concertation with them.

A handwritten signature in black ink, appearing to read 'Paolina Massidda', with a horizontal line underneath the name.

Paolina Massidda
Principal Counsel

Dated this 22nd day of June 2017

At The Hague, The Netherlands