

**Cour
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**International
Criminal
Court**

Original: English

No.: **ICC-02/04-01/15**

Date: **22 June 2020**

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

Public Redacted Version of “Defence’s Response to the Prosecution’s Request for Non-Standard Redactions”, filed on 19 June 2020 as ICC-02/04-01/15-1743-Conf

Source: Defence for Dominic Ongwen

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

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I. INTRODUCTION

1. The Defence for Dominic Ongwen ('Defence') respectfully requests Trial Chamber IX ('Chamber') to:
 - a. Order the Prosecution to upload the metadata for the last two disclosures according to the E-court Protocol;
 - b. Order the Prosecution to produce and disclose full-length transcripts for UGA-OTP-0158-0002-R01, UGA-OTP-0158-0034-R01, UGA-OTP-0158-0040-R01, UGA-OTP-0160-0095-Track01-R01, UGA-OTP-0160-0095-Track02-R01, UGA-OTP-0160-0095-Track03-R01, UGA-OTP-0189-0020-R01 and UGA-OTP-0227-0100-R01 ('Audio Files'), as it did for UGA-OTP-0283-1727-R02, and apply redaction codes to the transcripts of the Audio Files;
 - c. Review or order the Prosecution to review items UGA-OTP-0043-0124-R02, UGA-OTP-0161-0164-R02, UGA-OTP-0198-0249-R02, UGA-OTP-0204-0186-R02, UGA-OTP-0204-0209-R02, UGA-OTP-0204-0226-R02, UGA-OTP-0204-0243-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0268-R02, UGA-OTP-0204-0284-R02, UGA-OTP-0204-0300-R03, UGA-OTP-0204-0309-R02, UGA-OTP-0204-0327-R02, UGA-OTP-0204-0336-R02, UGA-OTP-0207-0026-R02, UGA-OTP-0207-0184-R02, UGA-OTP-0238-0699-R02, UGA-OTP-0263-1765-R02, UGA-OTP-0263-1872-R02, UGA-OTP-0283-1727-R02 and UGA-OTP-0283-2165-R02 ('Documents') to ensure the material is lawfully redacted, as requested below;
 - d. Order the immediate disclosure of the material under redaction codes "B.1" and "B.2" in item UGA-OTP-0198-0249-R02 because the redaction of the material violates Mr Ongwen's rights pursuant to Article 67(1)(e), Rule 68(2)(c) of the Rules of Procedure and Evidence ('RPE') and Rule 77 of the RPE; and
 - e. Order the Prosecution to review the entirety of its material to ensure the accuracy of its previous redactions.
2. With respect, the Defence finds it suspicious that the disclosure of 5 June 2020 changed the redaction codes in many of the items disclosed on 22 May 2020. It calls into question the Prosecution's attention to detail with its disclosure, and the Defence questions whether this

review would have been done had the Defence not emailed the Prosecution on 25 May 2020 about the redaction codes.

II. CONFIDENTIALITY

3. Pursuant to Regulation 23 *bis*(1) of the RoC, the Defence files this response as confidential as it refers to issues about witnesses which are not known to the public. A public redacted version of the response will be submitting contemporaneously.

III. BACKGROUND

4. On 23 April 2015, Pre-Trial Chamber II issued its “Decision on issues related to disclosure and exceptions thereto” (‘Protocol’).¹ The Single Judge subsequently adopted the Protocol on 4 May 2016.²
5. On 22 April 2020, the Chamber issued the “Decision on Defence Request for Remedies in Light of Disclosure Violations” (‘Disclosure Decision’).³ The Chamber ordered “the Prosecution to disclose the items in question, applying any appropriate redactions, as necessary, in accordance with the redaction protocol or, as the case may be, applying to the Chamber for any non-standard redactions.”⁴
6. On 22 May 2020, the Prosecution disclosed the Audio Files and R01’s and one R02 of the Documents to the Defence.⁵ One of the Audio Files, UGA-OTP-0227-0100-R01, is only in Acholi.
7. On 25 May 2020, the Defence wrote an email to the Prosecution requesting to understand both the “C” and “D” redaction codes in the disclosure on 22 May 2020 in relation to item UGA-OTP-0263-1765-R01.⁶ The Defence further noted that, “[a]fter skimming of some of

¹ Pre-Trial Chamber II, *Decision on issues related to disclosure and exceptions thereto*, [ICC-02/04-01/15-224](#).

² Trial Chamber IX, *Order Scheduling First Status Conference and Other Matters*, [ICC-02/04-01/15-432](#), para. 4.

³ Trial Chamber IX, *Decision on Defence Request for Remedies in Light of Disclosure Violations*, [ICC-02/04-01/15-1734](#).

⁴ *Ibid*, para. 34.

⁵ Trial Chamber IX, *Prosecution’s Communication of the Disclosure of Evidence*, ICC-02/04-01/15-1737-Conf-AnxA.

⁶ Email from Thomas Obhof to Colin Black, *Inter partes request for disclosure*, sent 25 May 2020 at 08h44. The Defence admits that it had not yet downloaded ICC-02/04-01/15-1737 at the time of sending this email.

the items Friday, I noticed that the redaction codes C and D are prevalent in much, if not all, of the disclosure package.”⁷

8. On 26 May 2020, the Prosecution responded to the Defence, noting its filing from 22 May 2020, but clarified that, “[REDACTED].”⁸ The Prosecution and Defence emailed twice more to discuss about the time limits for filing a response to start once the amended request was filed.⁹
9. On 26 May 2020, the Prosecution notified the Chamber, Defence and Legal Representatives of the mistake in failing to address in the request of 22 May 2020 issues related to non-standard redactions under Rule 81(1) of the RPE.¹⁰
10. On 5 June 2020, the Prosecution disclosed the Documents.¹¹ All the Documents contained redaction codes which were different in some manner from the versions disclosed on 22 May 2020.
11. On 8 June 2020, the Prosecution filed the “Prosecution’s Amended Request for Non-Standard Redactions” (‘Amended Request’).¹²
12. On 8 June 2020 after the close of business, the Defence disclosed transcripts of the Audio Files, with the exception of UGA-OTP-0227-0100-R01.¹³
13. On 12 June 2020, the Defence disclosed the transcripts described directly above to the Chamber and Legal Representatives *via* eCourt.¹⁴

IV. SUBMISSIONS

A. Preliminary matters related to the metadata for the Documents and Audio Files.

14. In the two disclosures of 22 May and 5 June 2020, the Defence notes that the material provided by the Prosecution does not conform to the “Unified Technical protocol (“E-court

⁷ *Ibid.*

⁸ Email, Colin Black to Thomas Obhof, *RE: Inter partes request for disclosure*, received on 26 May 2020 at 12h49.

⁹ Email, Thomas Obhof to Colin Black, *RE: Inter partes request for disclosure*, received on 26 May 2020 at 12h54 and from Colin Black to Thomas Obhof, *RE: Inter partes request for disclosure*, received on 26 May 2020 at 13h36.

¹⁰ Email, Colin Black to Trial Chamber IX, Defence, CLRV and LRV, *amendment to Prosecution filing 1737*, received on 26 May 2020 at 13h49 CET.

¹¹ Trial Chamber IX, *Prosecution’s Amended Request for Non-Standard Redactions*, ICC-02/04-01/15-1740.

¹² *Ibid.*

¹³ Trial Chamber IX, *Defence Notification of Disclosure of Rule 78 Material*, ICC-02/04-01/15-1741-Conf-AnxA.

¹⁴ Email, Thomas Obhof to eCourt Support, *OTP v Ongwen – Defence Disclosure*, sent on 12 June 2020 at 14h05 CET.

Protocol”) for the provision of evidence, witness and victims information in electronic form.”¹⁵ Many of the items disclosed did not contain information in the “Related to Witness” category,¹⁶ and the Documents were not attached to the summaries provided by the Prosecution, as required under the E-court Protocol.¹⁷ The Defence has corrected these issues in its Ringtail system, but it requests the Chamber to order the Prosecution to upload the metadata to the eCourt system.

B. Preliminary matters related to the alleged investigation techniques of the Prosecution.

15. The Defence challenges that the format of the Individual Protection Assessment form is information related to investigation techniques.¹⁸ For many of the Documents disclosed, the format is approximately 15 years old.¹⁹ Furthermore, by comparing several of the documents, the Defence can re-create an overwhelming majority of the Individual Protection Assessment form.²⁰ The Defence asks the Chamber to question whether the protection of this form’s structure is still necessary to protect from officers of the Court,²¹ noting that the Prosecution is not concerned about the professionalism of the Defence.²²
16. For the abovementioned reasons, the Defence requests the Chamber to order the Prosecution to lift the redactions in the old-style Individual Protection Assessment form²³ as it is outdated and not longer protected as the Prosecution alleges.

C. The Defence requests the Chamber to order the Prosecution to create transcripts for the Audio Files and apply redactions pursuant to the Protocol.

17. The Protocol is clear on how redactions in this proceeding are to be applied. Judge Tarfusser, acting as the Single Judge for Pre-Trial Chamber II, order that:

¹⁵ Pre-Trial Chamber II, *Decision Setting the Regime for Evidence Disclosure and Other Relation Matters*, [ICC-02/04-01/15-203-Anx1](#).

¹⁶ *Ibid*, para. 16, third bullet point and section D, PDF pages 14-15.

¹⁷ *Ibid*, Appendix B, section 2, PDF page 21.

¹⁸ See Amended Request, para. 23.

¹⁹ UGA-OTP-0198-0249-R02, UGA-OTP-0204-0186-R02, UGA-OTP-0204-0209-R02, UGA-OTP-0204-0226-R02, UGA-OTP-0204-0243-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0268-R02, UGA-OTP-0204-0284-R02, UGA-OTP-0204-0300-R03, UGA-OTP-0204-0309-R02, UGA-OTP-0204-0327-R02, UGA-OTP-0204-0336-R02, and UGA-OTP-0207-0026-R02.

²⁰ *E.g.*, UGA-OTP-0204-0226-R02, UGA-OTP-0204-0300-R02, UGA-OTP-0204-0209-R02, and UGA-OTP-0204-0243-R02.

²¹ *Cf.* UGA-OTP-0204-0268-R02 with UGA-OTP-0283-2165-R02.

²² Amended Request, para. 19.

²³ See footnote 19.

*For each redaction so applied, the Prosecutor shall indicate the category by including the corresponding code in the redaction box, unless such indication would defeat the purpose of the redaction. The Prosecutor shall also monitor the need for redactions over time, and lift redactions as soon as they are no longer warranted.*²⁴

18. Judge Tarfusser further ordered that, “[a]ny redactions which do not fall in the categories listed above shall be subject to an application to the Single Judge.”²⁵

19. The Prosecution disclosed the Audio Files without transcripts. Transcripts of seven out of the eight audio files have been provided by the Defence to the Chamber, Prosecution and Participants,²⁶ but the transcripts contain no redaction codes as they were produced by the Defence. One of the Audio Files, UGA-OTP-0227-0100-R01, appears to be entirely in Acholi, a language which none of the Judges speak.

20. In relation to the Audio Files, the Prosecution stated:

*[T]he non-standard redactions are to conversations related to the perceived security concerns of the witness and his/her family at the time of the interview. If the Chamber wishes to review the relevant audio files, the time stamps of the redactions can be provided.*²⁷ [Internal citations omitted.]

21. Furthermore, the Prosecution stated:

*The remaining six Disclosed Items are audio files to which rule 81(1) **and** 81(4) redactions have been applied by editing the relevant file. These audio files have not been appended to this submission. However, they are already available to the Chamber in unredacted form, and available in eCourt with redactions.*²⁸ [Internal citations omitted and emphasis added.]

22. The Prosecution admits that the redactions fall under non-standard redactions, yet it fails to identify the justifications for the redactions. The descriptions above are not “C” and “D” codes as required by the Protocol like the Prosecution placed in the Documents, and its failure to do so deprives the Chamber, Defence and Participants of a proper evaluation of the Audio Files.

²⁴ Protocol, para. 5.

²⁵ *Ibid*, para. 7.

²⁶ See paragraphs 12-13 above. The Defence is in the process of translating UGA-OTP-0227-0100-R01, but because of size limitations and the Reduced Activity Period beginning on 1 April 2020, the Defence faces issues with finding a Team member who is in The Hague who can translate this audio track.

²⁷ Trial Chamber IX, *Prosecution’s Communication of the Disclosure of Evidence*, ICC-02/04-01/15-1737, para. 4.

²⁸ Trial Chamber IX, *Prosecution’s Amended Request for Non-Standard Redactions*, ICC-02/04-01/15-1740, para. 10.

23. Furthermore, it is impossible for the Judges to determine whether any of the redactions in UGA-OTP-0227-0100-R01 are warranted as this item is in Acholi. The Prosecution's assertion, *[i]f the Chamber wishes to review the relevant audio files, the time stamps of the redactions can be provided*, is impossible for this item.
24. The Prosecution has failed to identify properly the redaction codes for the redactions applied in the Audio Files as ordered by Pre-Trial Chamber II and adopted by the Chamber.²⁹ The timing of the disclosure, *i.e.* after the closing arguments, is irrelevant. The Protocol does not allow for the easing of restrictions merely because the Chamber is deliberating the Article 74 Judgment. This piecemeal manner of disclosure cannot be accepted at any point of the trial, especially when prior judicial orders exist.
25. The Defence request the Chamber to order the Prosecution to file transcripts of the Audio Files with proper redaction codes immediately. The timing of the disclosure cannot usurp the Prosecution's duty under the Protocol.

D. The Prosecution's redactions in UGA-OTP-0204-0268-R02 are not warranted and should be reviewed by the Chamber.

26. Item UGA-OTP-0204-0268-R02 is an "Individual Protection Assessment" from [REDACTED] July 2005 with UGA-D26-P-0134. This witness testified for the Defence during its case-in-chief.³⁰ The Defence interviewed D-134 beforehand and submitted a Witness Information Form to VWU.
27. The Defence reiterates that according to the Protocol, the Prosecution has the obligation to "monitor the need for redactions over time, and lift redactions as soon as they are no longer warranted."³¹
28. Redaction codes "B.1" and "B.2" are applied to this item.³² The Defence knows or can easily find out this information. These redactions are no longer warranted and should be lifted.
29. Redaction code "A.7" is also applied to this document.³³ The Defence knows how to contact the witness, where the witness works and how the Prosecution came to first contact the witness. This redaction is no longer warranted and should be lifted.

²⁹ See footnotes 1-2 above.

³⁰ See [ICC-02/04-01/15-T-240-Red2-ENG](#) (16/09/2019) and [ICC-02/04-01/15-T-241-Red-ENG](#) (17/09/2019).

³¹ Protocol, para. 5.

³² UGA-OTP-0204-0268-R02, pp 0268-0269.

30. Similarly, the Defence doubts that redaction codes “C” and “D” are necessary in this item. As noted above, the witness testified before the Court for the Defence. The information detailed in these sections, *i.e.* pages 0269-0274, relate to “[REDACTED]”, “[REDACTED]” and “[REDACTED]”. As an example, the Defence knows the Prosecution met with D-134 in August³⁴ and November 2004,³⁵ then on [REDACTED] June 2005,³⁶ [REDACTED] July 2005 in this item, and [REDACTED] May 2007.³⁷ In relation to the other issues, the information is severely outdated. The issues related to security and protective measures the witness faced in 2005 are not the same as today in 2020, especially considering that the Defence met with the witness and testified during the Defence’s case-in-chief. The information is outdated and the Defence seriously questions whether this information warrants being redacted.
31. Finally, it is doubtful that the information contained within this item is information related to investigation techniques,³⁸ as outlined above in paragraphs 15-16 above.
32. The Defence respectfully requests the Chamber to review all redactions emplaced on UGA-OTP-0204-0268-R02 to ensure that the redactions are warranted pursuant to the Protocol.

E. The Prosecution’s redactions in UGA-OTP-0238-0699-R02 are not warranted and should be reviewed by the Chamber.

33. Item UGA-OTP-0238-0699-R02 is a “[REDACTED]” from [REDACTED] July 2015 with UGA-D26-P-0036. This witness was scheduled to testify for the Defence during its case-in-chief. The Defence interviewed D-36 and submitted a Witness Information Form to VWU. The Defence also requested to submit the witness’s transcripts into evidence.³⁹
34. Firstly, like redaction code “A.7” above, the Defence seriously questions whether redaction code “A.2.4” is still required.⁴⁰ The Defence received reports from [REDACTED] without his name being redacted.⁴¹ Is this person hidden under “A.2.4” any different? The Defence sees no logical or concrete reason after the end of the presentation of evidence to have this

³³ UGA-OTP-0204-0268-R02, p. 0273.

³⁴ See UGA-OTP-0209-0069-R01 through UGA-OTP-0209-0364-R01.

³⁵ See UGA-OTP-0221-0280-R01 through UGA-OTP-0221-0405-R01.

³⁶ See UGA-OTP-0284-0817.

³⁷ *Ibid.*

³⁸ See Amended Request, para. 23.

³⁹ Trial Chamber IX, *Defence Requests to Add Eleven Items to its List of Evidence and Submission of Prior Recorded Testimony of UGA-D26-P-0036 pursuant to Rule 68(2)(a) of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1650-Conf](#) and Confidential Annex A.

⁴⁰ See UGA-OTP-0238-0699, pp 0701 and 0704.

⁴¹ *E.g.* UGA-OTP-0269-0569.

redaction. With the professionalism of Defence Counsel not being at issue,⁴² there is no reason to warrant these redactions. The Prosecution's investigation in this case is over. Finally, it is immaterial, because of the Prosecution's admission about Counsel's professionalism, that Joseph Kony is still at-large.

35. Secondly, the information contained in redaction codes "C" and "D" may still prove to be material to any possible appeal of an Article 74 Judgment. While the witness did not ultimately testify for the Defence, the Defence has preserved its appeal rights related to this witness.⁴³ [REDACTED]. The material covered by these redactions may very well still be disclosable pursuant to Rule 77 of the RPE even though the presentation of evidence has concluded.
36. For the abovementioned reasons, the Defence requests the Chamber to review all redactions emplaced on UGA-OTP-0238-0699-R02 to ensure those redactions are still warranted according to the Protocol.

F. The Prosecution's redactions in UGA-OTP-0198-0249-R02 and UGA-OTP-0283-1727-R02 are not warranted, violate Mr Ongwen's rights pursuant to Article 67(1)(e), Rule 68(2)(c) and Rule 77 and should be reviewed by the Chamber.

37. Item UGA-OTP-0283-1727-R02 contains redaction codes "C" and "D". Code "C" appears on the first page, and the Defence cannot fathom how the first page of a draft transcript could be legitimately redacted in this manner.⁴⁴ The Defence does not believe that this block redaction, on the title page, is or ever has been warranted in this manner pursuant to the Protocol.
38. The remaining 22 pages of the transcript, *i.e.* the actual interview, has all but lines 122-135 redacted.⁴⁵ Block redactions with code "D" appears. Again, it is unfathomable that every other line of the transcript is covered by code "D". With respect, it appears that someone merely said, "Good enough" and slapped block redactions down in five to ten minutes without true concern for the Protocol. The Chamber should order that this item is reviewed afresh by the Prosecution and proper redaction codes emplaced, and where redactions are no longer warranted under the Protocol, the redactions are lifted.

⁴² Amended Request, para. 19.

⁴³ See Trial Chamber IX, *Defence Request for Leave to Appeal "Decision on Defence to Submit the Prior Recorded Testimony of D-0036 and related documents pursuant to Rule 68(2)(a) of the Rules"*, [ICC-02/04-01/15-1674](#) and *Decision on Defence Request for Leave to Appeal the Decision Denying the Submission of Testimony of D-0036 Pursuant to Rule 68(2)(a) of the Rules*, [ICC-02/04-01/15-1680](#).

⁴⁴ UGA-OTP-0283-1727-R02, p. 1727. *Cf* with UGA-OTP-0283-1727-R01.

⁴⁵ *Ibid*, p. 1731.

39. Item UGA-OTP-0198-0249-R02 has similar issues noted above. Code “A.7” appears twice in this item.⁴⁶ Codes “B.1”, “B.2”, “C” and “D” also appear. The Defence incorporates by reference issues related to “A.7”, “C” and “D” redaction codes above in this and other sections of this response.
40. In relation to codes “B.1” and “B.2”, this information would have proved vital to the Defence during its investigations and case-in-chief. The withholding of this information is a violation of Article 67(1)(e), Rule 68(2)(c) of the RPE and Rule 77 of the RPE and should be unredacted and disclosed immediately.
41. [REDACTED] (UGA-OTP-P-0039), was listed as Rule 68(2)(c) witness for the Defence on its first, and every successive, List of Witnesses.⁴⁷ The Defence requested the submission into evidence the transcripts taken by the Prosecution from P-39.⁴⁸ The Defence stated that during its investigations, it learned that P-39 died sometime between 2010-2011⁴⁹ and that it was attempting to locate his death certificate.⁵⁰ The Prosecution even admitted that it heard information that P-39 was dead from Prosecution/UPDF Liaison P-78, Major Ocira.⁵¹ At this point, the material redacted under codes “B.1” and “B.2” became highly relevant to the preparation of the Defence’s case pursuant to Article 67(1)(e), Rule 68(2)(c) of the RPE and Rule 77 of the RPE, and this material should have been disclosed as soon as practicable without redaction codes “B.1” and “B.2”. Simply put, the Prosecution failed to disclose this material and violated Mr Ongwen’s rights pursuant to Article 67(1)(e), Rule 68(2)(c) of the RPE and Rule 77 of the RPE.
42. The Defence requests the Chamber to order the immediate disclosure of the material contained under redaction codes “B.1” and “B.2” in item UGA-OTP-0198-0249-R02, and that the remaining redactions in this item and UGA-OTP-0283-1727-R02 be reviewed for accuracy and the determination if the redactions are still warranted according to the Protocol.

⁴⁶ UGA-OTP-0198-0249-R02, pp 0250 and 0254.

⁴⁷ Trial Chamber IX, *Defence notification of List of Witnesses and Evidence in compliance with ICC-02/04-01/15-1021 and Request for Leave to Add Witnesses to its List of Witnesses and Materials to its List of Evidence*, ICC-02/04-01/15-1272-Conf-AnxA, person 72.

⁴⁸ Trial Chamber IX, *Defence Request Pursuant to Rule 68(2)(c) of the Rules of Procedure and Evidence*, ICC-02/04-01/15-1270-Conf.

⁴⁹ *Ibid*, para. 10.

⁵⁰ *Ibid*, para. 11.

⁵¹ Trial Chamber IX, *Prosecution’s Response to the Defence Request Pursuant to Rule 68(2)(c) of the Rules of Procedure and Evidence*, [ICC-02/04-01/15-1280](#), para. 5.

G. The Chamber should carefully review the remaining documents for accurate redactions and determine if the redactions are still warranted.

43. For the remainder of the Documents not discussed in paragraphs 17-42 above,⁵² the Defence requests that the Chamber review the Documents to determine if the redactions are correct according to the Protocol and that the redactions are warranted. This argument is without prejudice to Section IV(B), paragraphs 15-16 above.
44. In relation to all “A” redaction codes, the Defence questions whether these redactions are still warranted.⁵³ The Protocol requires the Prosecution to determine whether such redactions are warranted. In addition to the order in paragraph 5 of the Protocol, the subcategories under code “A” require the Prosecution to determine whether the redaction serves the purpose to protect an ongoing investigation or future investigations.⁵⁴ As noted above several times, with Counsel’s professionalism not in question, this becomes a higher threshold to retain the redactions now that the Prosecution’s investigations are completed.⁵⁵
45. For those witnesses who have testified, the Defence challenges that redaction code “B.1” are warranted. Generally, witnesses who testified gave information related to where they were born, lived, etc.⁵⁶ The Defence requests the Chamber to order the Prosecution to lift these redactions and re-disclose the items listed in footnote 56 below.
46. The Defence accepts that “B.2” and “B.3” redaction codes in the remainder of the Documents are more than likely irrelevant. While the Defence does not believe that these redactions are warranted, it does not believe the material would be necessary to the preparation of the Defence. The Defence’s only concern is if the persons protected by redactions interviewed with the Prosecution or were intermediaries for the Prosecution.
47. The Defence requests the Chamber to order the Prosecution to review the persons protected by these redactions to ensure that the persons named beneath these redactions were not interviewed with the Prosecution or were not intermediaries for the Prosecution.

⁵² UGA-OTP-0043-0124-R02, UGA-OTP-0161-0164-R02, UGA-OTP-0204-0186-R02, UGA-OTP-0204-0209-R02, UGA-OTP-0204-0226-R02, UGA-OTP-0204-0243-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0284-R02, UGA-OTP-0204-0300-R03, UGA-OTP-0204-0309-R02, UGA-OTP-0204-0327-R02, UGA-OTP-0204-0336-R02, UGA-OTP-0207-0026-R02, UGA-OTP-0207-0184-R02, UGA-OTP-0263-1765-R02, UGA-OTP-0263-1872-R02 and UGA-OTP-0283-2165-R02.

⁵³ Protocol, para. 4.

⁵⁴ The Defence notes that code “A.6” identifies possible intimidation or interference with leads or sources.

⁵⁵ See also para. 34 above.

⁵⁶ UGA-OTP-0043-0124-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0284-R02 and UGA-OTP-0283-2165-R02.

48. For the reasons above, the Defence requests the Chamber to review or order the Prosecution review the redaction codes as discussed above in this section.

V. RELIEF

49. For the reasons described above, the Defence respectfully requests Trial Chamber IX to:
- a. Order the Prosecution to upload the metadata for the last two disclosures according to the E-court Protocol;
 - b. Order the Prosecution to review and lift all redactions related to its investigative techniques in items UGA-OTP-0198-0249-R02, UGA-OTP-0204-0186-R02, UGA-OTP-0204-0209-R02, UGA-OTP-0204-0226-R02, UGA-OTP-0204-0243-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0268-R02, UGA-OTP-0204-0284-R02, UGA-OTP-0204-0300-R03, UGA-OTP-0204-0309-R02, UGA-OTP-0204-0327-R02, UGA-OTP-0204-0336-R02, and UGA-OTP-0207-0026-R02;
 - c. Order the Prosecution to produce full-length transcripts for the Audio Files. apply redaction codes to the transcripts of the Audio Files, and disclose the transcripts of the Audio Files;
 - d. Review all redactions emplaced on UGA-OTP-0204-0268-R02 to ensure that the redactions are warranted pursuant to the Protocol;
 - e. Review all redactions emplaced on UGA-OTP-0238-0699-R02 to ensure those redactions are still warranted according to the Protocol;
 - f. Order the Prosecution to disclosure immediately the material contained under redaction codes “B.1” and “B.2” in item UGA-OTP-0198-0249-R02;
 - g. Review all further redactions emplaced on UGA-OTP-0198-0249-R02 and UGA-OTP-0283-1727-R02 to ensure those redactions are still warranted according to the Protocol;
 - h. Review all “A” redaction codes to determine if these redactions are still warranted;
 - i. Order the lifting of all “B.1” redaction codes in items UGA-OTP-0043-0124-R02, UGA-OTP-0204-0259-R02, UGA-OTP-0204-0284-R02 and UGA-OTP-0283-2165-R02;

- j. Order the Prosecution to review “B.2” and “B.3” redactions in the remaining documents to ensure that the persons protected by these redactions were not interviewed by the Prosecution or acted as an intermediary for the Prosecution;
- k. Order the Prosecution to review redaction codes “C” and “D” to ensure compliance with paragraph 5 of the Protocol; and
- l. Order the Prosecution to review the entirety of its material in the Ugandan Situation to ensure the accuracy of its previous redactions and that the redactions are still warranted.

Respectfully submitted,



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Hon. Krispus Ayena Odongo
On behalf of Dominic Ongwen

Dated this 22th day of June, 2020
At Kampala, Uganda