

ANNEX III

PUBLIC

From: Trial Chamber IX Communications
Sent: 10 January 2019 18:13
To:

Trial Chamber IX Communications;

Subject: RE: URGENT REQUEST re Defence Filing

Dear counsel,

Upon reviewing the redactions in the new request, the Chamber is satisfied that the Defence has complied with the direction to provide a sufficient factual basis so as to enable a meaningful response (Email from the Chamber, 9 January 2019 at 17:45).

In light of the sensitive and personal nature of the information covered by the redactions identified in part 2 of the Prosecution Request, the Chamber considers it unduly prejudicial to provide this information to the other participants at this time. This without prejudice to a potential further decision whether this information has to be disclosed. Part 2 of the Prosecution Request is rejected.

As for filing ICC-02/04-01/15-1403-Conf-Exp, the Chamber directs the Registry to prepare a confidential redacted version of this filing in consultation with the Defence. This is to be done as soon as possible, but the Chamber rejects Part 1 of the Prosecution Request to the extent that the Prosecution argues that this filing is a necessary pre-requisite to responding to the new Defence request.

Kind regards,
 Trial Chamber IX

From:
Sent: 10 January 2019 17:19

To:
 Trial Chamber IX Communications

Cc:
Subject: RE: URGENT REQUEST re Defence Filing

Dear Trial Chamber IX,

In the Trial Chamber's email yesterday, it ordered the Defence to do the following:

"By the same deadline, the Defence is to file a redacted version of its request (and the annexed email) that provides a sufficiently clear factual basis for the relief sought so as to enable a meaningful response. The Chamber reserves its prerogative to lift any redactions should it consider it necessary to ensure the fair and expeditious conduct of the proceedings."

The Defence filed its request with the utmost respect and diligence to this order. The Defence provide a clear factual basis for the Prosecution to make a very meaningful response. The Prosecution's request is an

attempt to violate Mr Ongwen's fundamental right to privacy. The issue before the Chamber deals with [REDACTED], not the redacted sections and filing 1403-Conf-Exp.

Nothing in the Prosecution's request below is justified and it should be denied.

The Defence notes the CLRV supports the request from the Prosecution. The Prosecution's request lacks merit, and thus so does the CLRV's support. The fact that the CLRV relies on the Prosecution's request for filing 1403-Conf-Exp and redaction sections of the Defence's filing today does not negate that the Prosecution's request violates the fundamental privacy and human rights of Mr Ongwen.

Sincerest regards,

[REDACTED]

On behalf of Co-Counsel

From: [REDACTED]

Sent: 10 January 2019 16:58

To: [REDACTED]
[REDACTED] Trial Chamber IX Communications

Cc: [REDACTED]

Subject: URGENT REQUEST re Defence Filing

Importance: High

Dear Trial Chamber IX,

Upon receipt of the Defence's courtesy copy of its filing requesting a stay of proceedings, the Prosecution requests as a matter of urgency that it be provided as soon as possible and preferably by close of business today with the following:

1. The Registry's Report/Filing of 9 January 2019 (ICC-02/04-01/15-1403-ConfExp), and
2. Unredacted content of paragraphs 20, 41 and 42 of the Defence's filing and paragraph 5 of Confidential Annex A

Neither confidentiality nor privacy justify the withholding of such material in the present case, in which the Defence relies squarely upon such material in support of its request for a stay of proceedings. On the contrary, procedural fairness demands that this material be disclosed since it is purportedly capable of materially affecting the Trial Chamber's decision and affecting the rights of parties to these proceedings. Without such material, the Prosecution is unable to respond meaningfully to the request. In particular, the Prosecution must be able to assess whether the assertions made by either the Defence or Registry are based on medical opinion, and if so, the source of and basis for such medical opinion.

Kind regards

[REDACTED]

Dévouement - Intégrité - Respect
Dedication - Integrity - Respect

From: [REDACTED]

Sent: 10 January 2019 15:28

To: [REDACTED]
[REDACTED] Trial Chamber IX Communications

Cc: [REDACTED]

Subject: CRV of Filing for Today

Dear Prosecution and LRVs,

Please find attached the advance copy of the filing the defence shall be submitting before 16h00 today.

Very best,

