

ANNEX A

Public

TABLE OF AUTHORITIES

ICC FILINGS

ICC-01/04-02/06-1330	<i>Prosecutor v. Ntaganda</i> , Judgment on the appeal of Mr Bosco Ntaganda against the “Decision on Defence requests seeking disclosure orders and a declaration of Prosecution obligation to record contacts with witnesses”, ICC-01/04-02/06-1330 , 20 May 2016 at paras 28 and 33.
ICC-02/04-01/15-1335	<i>Prosecutor v. Ongwen</i> , Decision on Defence Request in Light of Prosecution Meeting and Interview with D-100, ICC-02/04-01/15-1335 , 12 September 2018 at paras 5 and 6.
ICC-02/11-01/15-200	<i>Prosecutor v. Gbgabo & Blé Goudé</i> , Decision adopting the 'Protocol on disclosure of the identity of witnesses of other parties and of the LRV in the course of investigations, use of confidential information by the parties and the LRV in the course of investigations, inadvertent disclosure and contacts between a party and witnesses not being called by that party', ICC-02/11-01/15-200 , 31 August 2015. Para 14: “ <i>the definition suggested by the Defence is too broad and would lead to application of the Protocol to individuals who are only remotely linked to the Court and/or who are not likely to be called to testify. In the view of the Single Judge, this would not usefully serve the purpose of the Protocol, which is mainly intended to protect the safety of witnesses and preserve the integrity of investigations.</i> ”
ICC-01/05-01/08-2141	<i>Prosecutor v. Bemba</i> , Decision on defence disclosure and related issues, ICC-01/05-01/08-2141 , 24 February 2012 at para 33.
ICC-02/11-01/15-199	<i>Prosecutor v. Gbgabo & Blé Goudé</i> , Decision adopting mechanisms for exchange of information on individuals enjoying dual status, 31

	August 2015, ICC-02/11-01/15-199 <i>“19. The Single Judge agrees with the Prosecution and the Gbagbo Defence that the Defence should notify not only the LRV but also the Prosecution of the dual status of any of the witnesses it will call. However, the Single Judge considers that the provision as drafted is too broad as it seems to include any individual the Defence has interviewed and may consider calling, even if the decision to call the individual as a witness has not yet been made. The Single Judge has reworded the provision, so as to mirror that pertaining to the Prosecution's obligation”.</i>
ICC-02/11-01/15-205	<i>Prosecutor v. Gbagbo & Blé Goudé, Directions on the conduct of the proceedings, ICC-02/11-01/15-205, 03 September 2015 at para 13:</i> <i>13. The Chamber recalls Rule 79 of the Rules which requires the Defence to notify the Prosecution of its intent to raise the existence of an alibi or grounds for excluding criminal responsibility sufficiently in advance to enable the Prosecution to adequately prepare and respond. The Chamber invites the Defence to provide this notification, if any, prior to the start of trial. However, the Chamber notes that Rule 79 of the Rules specifically provides that failure by the Defence to provide such notice shall not limit its right to raise such matters and to present evidence thereon.</i>

ICC REPORTS

Guidelines Governing the Relations between the Court and Intermediaries	Guidelines Governing the Relations between the Court and Intermediaries, for the Organs and Units of the Court and Counsel working with intermediaries, March 2014.
--	--

Report of the Bureau on Cooperation 2009 ICC-ASP/8/44	Assembly of States Parties, Report of the Bureau on Cooperation, Eight session, ICC-ASP/8/44, 15 November 2009 at paras 102 and 104: <i>102. There is no fair trial without providing the Defence with adequate facilities to prepare its case, in particular in terms of investigation and collection of evidence,</i> <i>104: In this respect, defence counsel and their teams receive the same security, logistical and administrative assistance as Court staff. Such assistance is primarily provided by the Court's field offices, but also by United Nations offices and States.</i>
Financial statements of the International Criminal Court for the year ended 31 December 2017	Assembly of States Parties, Financial statements of the International Criminal Court for the year ended 31 December 2017, Seventeenth session, ICC-ASP/17/12, 27 July 2018 at paras 10.17: <i>Service-incurred injury</i> <i>10.17 The Court entered into an agreement with an insurance company to offer coverage for service-incurred injuries for the Court's staff, judges, consultants and temporary assistants. The insurance premium, calculated as a percentage of the pensionable remuneration for staff members and a comparable percentage for judges, consultants and temporary assistants, is charged to the organization's budget and is reflected in the accounts under expenditures. The total premium paid during 2017 for this insurance was €910 thousand.</i>
Consultation Meeting on the new Registry's proposal for the Court's Legal Aid Policy	Consultation Meeting on the new Registry's proposal for the Court's Legal Aid Policy, Transcript, 3 December 2018, p. 87: <i>MS MASSIDDA: (Interpretation) Paolina Massidda. Now when it come to the part that is not covered by national insurance, take Italy, for example, it's not easy to find travel insurance if you are travelling to the DRC, so that you wouldn't find it. And I think it</i>

	would be a good thing to try to explore the possibilities of also providing some kind of insurance for the parts of insurance that are not covered by national insurance companies. And I'm thinking here, for example, of the SOS possibility. We have SOS for all medical issues in the field; so that kind of option could be considered and can be extended. I don't know if I'm speaking proper French here, but this could be extended to counsel appearing before the Court. MR. DUBUISSON: (Interpretation) Now when it comes to medical evacuation, emergencies and what have you, the Court's medevac system would address those issues.
--	---

UN REPORTS

CEB/2017/HLCM/16	United nations System, Chief Executives Board for Coordination, HLCM, Duty of Carte Task Force Interim Report, Thirty-Fourth Session, CEB/2017/HLCM/16 , 14 September 2017 at page 10.
CEB/2019/HLCM/27/Rev.1	United nations System, Chief Executives Board for Coordination, HLCM, Cross-functional Task Force on Duty of Care Final Report, October 2019, Thirty-Eighth Session, CEB/2019/HLCM/27/Rev.1 , 11 October 2019.

INTERNATIONAL DECISIONS

ICTY, <i>Prosecutor v. Brdjanin and Talic</i>	Prosecutor v. Brdjanin and Talic, Decision on Motion by Prosecution for Protective Measures, 3 July 2000 at para 46: <i>46. The accused Talic objects to such an order upon the basis that it infringes the confidentiality of his defence team's investigations,(67) in that (a) it will permit both the prosecution and the Tribunal to know those whom his defence team is meeting in order to organise his</i>
--	--

	<i>defence, (68) and (b) it will permit the prosecution to prosecute those persons “secretly”. (69) The prosecution denies that legal professional privilege applies to that information. Again, it is unnecessary for the Trial Chamber to determine whether the confidentiality as to the identity of persons to whom the defence team have spoken in the preparation of the case for the accused stems from legal professional privilege, as it is sufficient to say that such information is confidential, and the accused should not ordinarily be requested to divulge it.</i>
ILOAT judgment No. 3090	ILOAT, 112 th session, judgment No. 3090 , 8 February 2012 at para 7: <i>In considering that the complainant belonged to the category of short-term employees to whom the Staff Regulations and Staff Rules do not apply and who do not enjoy legal protection comparable to that enjoyed by other staff members, the defendant failed to recognise the real nature of its legal relationship with the complainant.</i>
ILOAT judgment No. 701	ILOAT, Fifty-seventh ordinary session, In re Bustos, Judgment No. 701 , 14 November 1985.

OSH Framework for Affiliate/Standby/Non-UN Personnel			
Core Principles	Prior to deployment	During deployment	Post-deployment
1. Risk awareness and transparency	Provision of detailed information.	- Ongoing dissemination of security, occupational safety and health and other relevant information. - Access to mandatory security and other training courses.	Development and implementation of a mechanism to collect and reflect on the feedback from the personnel.
2. Effective occupational safety, health and security management	- Medical certificate. - Security clearance. - Secure travel and visa arrangements.	- Inclusion under the security system in place. - Application of minimum standards for accommodation. - Adequate bandwidth provided. - Access to available medical and psychosocial services. - Access to medical evacuation services and certification of continuous insurance coverage.	
3. Inclusion and respect for dignity	Reasonable accommodation of disability and other special needs.	- Compensation commensurate with the work and working conditions. - Protection against sexual harassment, harassment and abuse of authority. - Protection against retaliation.	- Certificate of service/ successful performance, if applicable. - Timely settlement of final emoluments as provided in the contractual agreement (e.g. last pay, travel cost etc.).
4. Caring for consequences of risk	Ensuring appropriate insurance coverage (to be funded by the organization or the individual).	Crisis management (e.g. medical and security evacuation etc.).	Follow-up mechanism/ compensation in case of long-term effects of occupational illnesses/ accidents.
5. Accountability at all levels	Clear assignment of roles and responsibilities for the parties prior to deployment.	- Clear managerial and individual responsibilities for managing occupational safety, health and security risks. - Terms in the contractual agreement describe the mechanism for dispute resolution. - Appropriate on-going support for the assessment of performance.	

Figure 3. OSH Framework for Affiliate, Standby and Non-UN Personnel in the context of the Core Principles