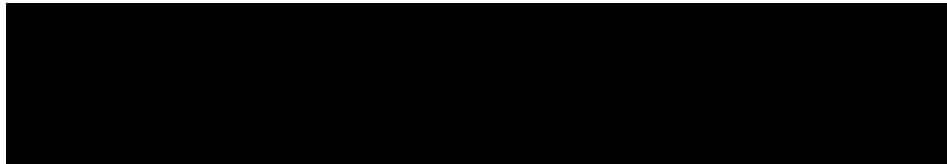


Annex

From:
To:
Cc:



Subject: RE: Réponse aux écritures ICC-01/12-01/18-976-Conf-Red
Date: 17 August 2020 13:07:03

Dear Trial Chamber X, Dear Colleagues,

The Defence for Mr. Al Hassan hereby submits its response to the Prosecution Rule 87 request for in-court protective measures.

As a first point, Rule 87(2)(a) underscores the *inter partes* nature of Rule 87 requests. The Prosecution has nonetheless included *ex parte* information and argumentation in its request, and has not provided any *inter partes* justification for doing so. Whereas the redaction of discrete details (i.e. the location of witnesses) might be objectively necessary, the Prosecution has redacted entire paragraphs and sentences in relation to key witnesses such as P-65, P-638, and P-150. The inclusion of substantial *ex parte* argumentation in relation to matters directly related to the trial process is problematic, particularly if the *ex parte* argumentation concerns allegations related to the defendant, or the Defence. It is also critical that protective measure requests are not used to advance arguments that touch on issues concerning the reliability or credibility of future testimony. The Defence therefore requests that such argumentation either be reclassified as *inter partes* or dismissed *in limine*.

As a second point, given the lack of time available to the Defence at present, and the fact that it is not familiar with the specific security profile of Prosecution witnesses, the Defence does not take a specific stance on each protection request. The Defence nonetheless emphasises the need to ensure open and transparent proceedings, which in turn, translates to an obligation to avoid recourse to either an unnecessary or disproportionate use of closed sessions and anonymity vis-à-vis the public.

Kind regards
Melinda Taylor, on behalf of the Al Hassan Defence
