



Original: English

**No. [REDACTED]
Date: [REDACTED]**

THE APPEALS CHAMBER

Before:

**Judge Howard Morrison, Presiding Judge
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]**

SITUATION IN [REDACTED]

IN THE CASE OF THE PROSECUTOR v. [REDACTED]

Public redacted document

**Order to Registrar to transmit clarification to the Office of Public Counsel for
the defence**

Order to be notified in accordance with regulation 31 of the Regulations of the Court to:

The Office of the Prosecutor
Ms Fatou Bensouda, Prosecutor
Ms Helen Brady

REGISTRY

Registrar
Mr Herman von Hebel

The Appeals Chamber of the International Criminal Court,

In the appeal of the Prosecutor against the decision of [REDACTED],

Having before it the “Request for Clarification and Additional Information” made by the Office of Public Counsel for the defence [REDACTED],

Renders the following

ORDER

1. The “Request for Clarification and Additional Information” is granted in part.
2. The Registrar is ordered to transmit to the Office of Public Counsel for the defence, as soon as possible but no later than [REDACTED], the clarification contained in paragraph 7 of the present order.

REASONS

I. PROCEDURAL HISTORY

1. On [REDACTED], [REDACTED] rendered the [REDACTED]¹ (hereinafter: “Impugned Decision”).
2. On [REDACTED], the Prosecutor filed the “Prosecution’s appeal against [REDACTED]”² (hereinafter: “Document in Support of the Appeal”).
3. On [REDACTED], the Appeals Chamber rendered the “Order to Prosecutor to redact and Registrar to transmit information to and request submissions from the Office of Public Counsel for the defence and the Office of Public Counsel for victims”³ (hereinafter: “Order for Submissions”), in which it ordered (1) the Prosecutor to redact the Document in Support of the Appeal and submit the redacted version to the Registrar and the Appeals Chamber; and (2) the Registrar to transmit the redacted version to, *inter alia*, the Office of Public Counsel for the defence

¹ [REDACTED].

² [REDACTED].

³ [REDACTED].

(hereinafter: “OPCD”) and to request its submissions on the legal issue contained therein to be transmitted through the Registrar to the Appeals Chamber by [REDACTED].

4. On [REDACTED], the Registrar filed in the record of the case the “Request for Clarification and Additional Information”,⁴ in which the OPCD requests the Appeals Chamber to: (i) state the “specific provision by which OPCD is being requested to make these submissions – either Regulation of the Court 77(4)(a), 77(4)(b), 77(4)(c), or 77(4)(d) or pursuant to Rule 103(1) as an *amicus curiae*”; (ii) “[c]onfirm that such OPCD submissions are for the situation stage or for a case where there is no Counsel assigned to represent the suspect(s)/accused(s)”; (iii) “[d]isclose to the OPCD the Impugned Decision, excepting necessary redactions”; and, (iv) “[d]isclose to the OPCD a lesser-redacted version [of the Document in Support of the Appeal] providing with, to the degree permissible, the case law relied upon by the [Prosecutor]”.⁵

II. MERITS

5. The Appeals Chamber reiterates that in its Order for Submissions it indicated that the OPCD is to act pursuant to regulation 77 (4) (c) of the Regulations of the Court.⁶ It also referred to the Prosecutor’s submissions regarding the level of confidentiality.⁷

6. Having regard to the purpose of the submissions to be made by the OPCD and to the level of confidentiality applicable to the present proceedings, the Appeals Chamber finds it neither necessary nor practicable to provide the OPCD with the requested information. The Appeals Chamber only finds it necessary to clarify the legal basis upon which the OPCD is requested to make submissions, as this information was not conveyed to the OPCD.

7. The Appeals Chamber therefore directs the Registrar to convey to the OPCD, by [REDACTED], ensuring that any information identifying [REDACTED] is not conveyed, the following information: (i) the request for submissions by the OPCD

⁴ [REDACTED] (hereinafter: “Request for Clarification”).

⁵ Request for Clarification, pp. 5-6.

⁶ Order for Submissions, para. 6.

⁷ Document in Support of the Appeal, para. 6.

was made pursuant to regulation 77 (4) (c) of the Regulations of the Court; (ii) as the appeal of the Prosecutor raises a question of legal interpretation that may affect, *inter alia*, the rights of suspects and accused persons across all cases, the Appeals Chamber considered it appropriate to receive submissions from the OPCD as representatives of the general interests of the defence in respect of the present appeal; and (iii) having regard to the purpose of the submissions to be made by the OPCD and to the level of confidentiality applicable to the present proceedings, the Appeals Chamber finds it neither necessary nor practicable to provide the OPCD with other requested information.

Done in both English and French, the English version being authoritative.



Judge Howard Morrison
Presiding Judge

Dated this [REDACTED]

At The Hague, The Netherlands