



Original: **French**

No.: **ICC-01/12-01/18**

Date of original version:

13 September 2018

Date of public redacted

version: 27 September 2018

PRE-TRIAL CHAMBER I

Before: Judge Péter Kovács, Single Judge

SITUATION IN THE REPUBLIC OF MALI

IN THE CASE OF

***THE PROSECUTOR v. AL HASSAN AG ABDOUL AZIZ AG MOHAMED AG
MAHMOUD***

Public Redacted Version

**Decision on the Prosecution Motion for Authorization to File an Anonymous
Summary concerning Witness MLI-OTP-P-P0113**

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

Office of the Prosecutor

Ms Fatou Bensouda

Mr James Stewart

Counsel for the Defence

Mr Yasser Hassan

Legal Representatives of Victims

Legal Representatives of Applicants

Unrepresented Victims

**Unrepresented Applicants for
Participation/Reparations**

States' Representatives

**Office of Public Counsel for the
Defence**

REGISTRY

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Mr Peter Lewis

Counsel Support Section

Victims and Witnesses Section

Mr Nigel Verrill

Detention Section

**Victims Participation and Reparations
Section Other**

Judge Péter Kovács, designated by Pre-Trial Chamber I (“Chamber”) of the International Criminal Court (“Court”) as Single Judge responsible for carrying out the functions of the Chamber in the case of *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (“Al Hassan case”) since 28 March 2018,¹ decides the following.

I. Procedural history

1. On 27 March 2018, pursuant to article 58 of the Rome Statute (“Statute”), the Chamber issued a warrant of arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud (“Mr Al Hassan”).²
2. On 31 March 2018, Mr Al Hassan was surrendered to the Court and is currently in custody at the Court’s detention centre in The Hague.³
3. On 4 April 2018, Mr Al Hassan made his first appearance before the Single Judge in the presence of his counsel and the Prosecution.⁴
4. [REDACTED].⁵
5. On 16 May 2018, the Single Judge issued the “Decision on the Evidence Disclosure Protocol and Other Related Matters”.⁶

¹ “Decision Designating a Single Judge”, dated 28 March 2018 and reclassified as “public” on 31 March 2018, ICC-01/12-01/18-6-tENG.

² “Warrant of Arrest for Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud” dated 27 March 2018 and reclassified as “public” on 31 March 2018, ICC-01/12-01/18-2-tENG.

³ ICC-01/12-01/18-11-US-Exp.

⁴ Transcript of the first appearance hearing, 4 April 2018, ICC-01/12-01/18-T-1-CONF-FRA ET.

⁵ [REDACTED].

⁶ ICC-01/12-01/18-31-tENG.

6. [REDACTED]⁷ [REDACTED].⁸

7. On 16 July 2018, the Prosecution filed a confidential *ex parte* motion for authorization to disclose an updated version of the anonymous summary, as disclosed in *The Prosecutor v. Ahmad Al Faqi Al Mahdi* (“Al Mahdi case”), for Witness MLI-OTP-P-0113 (“Prosecution Motion” or “Motion” and “Witness P-0113” or “P-0113”, respectively).⁹

8. On 19 July 2018, the Single Judge issued a decision on the Prosecution Motion for authorization not to disclose the identity of Witness MLI-OTP-P-0431 (“Decision of 19 July 2018”).¹⁰

9. On 2 August 2018, the Defence filed its response to the Prosecution Motion (“Defence Response” or “Response”).¹¹

II. Analysis

1. Submissions of the parties

10. In its Motion, the Prosecution first seeks¹² to enter into the record an updated anonymous summary of Witness P-0113’s statement as incriminatory evidence pursuant to regulation 42(3) of the Regulations of the Court.¹³ Later in its Motion,¹⁴ the Prosecution no longer cites regulation 42(3) of the Regulations of the Court and

⁷ [REDACTED].

⁸ [REDACTED].

⁹ “Prosecution’s motion under regulation 42(3) for authorisation to disclose an updated anonymous summary for Witness MLI-OTP-P-0113 upon whose evidence the prosecution will rely at the confirmation hearing”, 16 July 2018, ICC-01/12-01/18-86-Conf-Exp, and five annexes classified “confidential *ex parte*” only available to the Prosecution and the Victims and Witnesses Unit. On 20 July 2018, the Prosecution entered into the record a confidential redacted version of its Motion, accessible to the Defence, except for its annexes, ICC-01/12-01/18-48-Conf-Exp-Red.

¹⁰ The Decision of 19 July 2018 was filed on the same day as a confidential *ex parte* version (ICC-01/12-01/18-88-Conf-Exp-tENG), as a confidential redacted version *ex parte* accessible to the Defence (ICC-01/12-01/18-88-Conf-Exp-Red-tENG) and as a public redacted version (ICC-01/12-01/18-88-Red2-tENG).

¹¹ “Response to the Prosecution’s motion under regulation 42(3) for authorisation to disclose an updated anonymous summary for Witness MLI-OTP-P-0113”, 2 August 2018, ICC-01/12-01/18-103-Conf.

¹² Prosecution Motion, para. 4.

¹³ Prosecution Motion, para. 4.

¹⁴ Prosecution Motion, paras. 7 and 60.

requests authorization, pursuant to rule 81(2) and (4) of the Rules, to disclose to the Defence an updated anonymous summary. In addition, the Prosecution seeks authorization not to disclose the first summary, as disclosed in the *Al Mahdi* case,¹⁵ or the investigation note [REDACTED].¹⁶

11. In support of its request, the Prosecution recalls that, in the *Al Mahdi* case,¹⁷ Witness P-0113 had also been granted protective measures, i.e. the redaction of his identity and disclosure to the Defence of an anonymous summary of his statement under rule 77 of the Rules. The Prosecution submits that regulation 42 of the Regulations of the Court applies to Witness P-0113's statement and to the other items of evidence associated with this witness.¹⁸

12. The Prosecution nevertheless maintains that, in the scope of the instant case, an updated summary that includes information relevant to this case is necessary. The Prosecution asserts that it intends to rely on Witness P-0113 at the confirmation of charges hearing, that an excerpt of a note [REDACTED] becomes potentially relevant for the summary in the instant case and that an investigation note [REDACTED] contains additional information.¹⁹

13. The Prosecution adds that Witness P-0113's statement makes reference to crimes committed by the armed groups in Timbuktu, the structure and leaders of the armed groups Ansar Dine and AQIM, and the institutions of the city, such as [REDACTED] the Islamic police, the *Hesbah* and the Islamic tribunal.²⁰

14. The Prosecution submits that exposure of this witness's cooperation with the Court would place his family at a risk of physical violence or death, while also prejudicing ongoing or future investigations.²¹

¹⁵ Prosecution Motion, para. 4 [REDACTED].

¹⁶ Prosecution Motion, para. 4 [REDACTED].

¹⁷ "Second Decision on the Prosecutor's requests for redaction", 16 December 2015, ICC-01/12-01/15-61.

¹⁸ Prosecution Motion, paras. 2-4.

¹⁹ Prosecution Motion, para. 3.

²⁰ Prosecution Motion, para. 47.

²¹ Prosecution Motion, para. 5.

15. In its Response, the Defence asks first and foremost that the Single Judge direct the Prosecution to submit a lesser redacted version of its Motion to ensure that the Defence has access to sufficient information and to allow it to assess the materiality of P-0113's statement.²²

16. The Defence moreover asserts that the Prosecution Motion – while it contains information authorized for non-disclosure in the *Al Mahdi* case – must be treated as a new request in the case at bar.²³ The Defence argues that, in the instant case and contrary to the *Al Mahdi* case, the Prosecution intends to rely on this relevant and incriminatory evidence at the confirmation of charges hearing.²⁴

17. The Defence also requests the Single Judge to dismiss the Motion and to order Witness P-0113's identity and any items of evidence associated with this witness to be disclosed to the Defence,²⁵ thereby giving the Defence access to exculpatory evidence and enabling it to test the credibility of this witness.²⁶

18. Should the Single Judge authorize the non-disclosure of P-0113's identity, the Defence asks that this witness's evidence be redacted rather than summarized.²⁷

19. The Defence proposes that, should the Single Judge grant the Motion, the Prosecution be prevented from relying on the evidence provided by Witness P-0113 since, in any event, it will not be able to make use of it in its current form at the trial stage.²⁸

20. Lastly, the Defence stresses that, in that scenario, the evidence associated with Witness P-0113, on which the Prosecution would rely at the confirmation of charges hearing, should be considered to have lesser probative value than the testimonies given by those witnesses whose identities were made known to the Defence.²⁹

²² Defence Response, paras. 4, 42-44 and 49.

²³ Defence Response, para. 16.

²⁴ Defence Response, paras. 16-19.

²⁵ Defence Response, para. 47.

²⁶ Defence Response, paras. 34 and 48.

²⁷ Defence Response, para. 48.

²⁸ Defence Response, paras. 36-39.

²⁹ Defence Response, para. 40.

Furthermore, the Prosecution would not be able to rely on the information that is not included in the summary.³⁰

2. Applicable law

21. The Single Judge refers to articles 21, 54, 57(3)(c), 61, 67, 68 and 69 of the Statute, rules 15, 76, 77, 81 and 121 of the Rules, and regulation 42 of the Regulations of the Court.

3. Conclusions of the Single Judge

(i) *Defence request for the submission of a lesser redacted version of the Prosecution Motion*

22. With regard to the Defence request asking the Single Judge to order the Prosecution to provide it with a lesser redacted version of its Motion,³¹ the Single Judge, who has access to the non-redacted version of the Prosecution Motion, considers that the redactions made by the Prosecution are necessary, not least to prevent the possible identification of the witness concerned, which would render the very purpose of the request invalid.

23. The Single Judge therefore considers that the Defence request must be rejected.

³⁰ Defence Response, para. 41.

³¹ Defence Response, paras. 42-44.

(ii) *Prosecution request to disclose an updated anonymous summary*

24. The Prosecution asks that it be allowed to enter into the record an updated anonymous summary of Witness P-0113's statement as incriminatory evidence, recalling that this witness had been granted protection measures in the *Al Mahdi* case,³² namely the redaction of his identity and the disclosure to the Defence of an anonymous summary of his statement pursuant to rule 77 of the Rules.

25. For the reasons put forth in its Motion³³ – and in particular its intent to rely on Witness P-0113 and to update the content of the summary concerning him on the basis of relevant information included in other documents (an investigation note [REDACTED]³⁴ and an investigation note [REDACTED])³⁵ – the Prosecution cites, in support of its request for disclosure of an updated anonymous summary, regulation 42(3) of the Regulations of the Court, which lays down the procedure where an application is made to vary protective measures ordered in other proceedings before the Court.

26. First, the Single Judge recalls that, under regulation 42(1) of the Regulations of the Court, protective measures ordered in respect of a witness in any proceedings before the Court apply *mutatis mutandis* to any other proceedings before the Court, subject to revision by a Chamber.

27. The Single Judge is therefore of the view the protective measures ordered in respect of Witness P-0113 in the *Al Mahdi* case, *viz.* the disclosure of an anonymous summary of his statement and the non-disclosure of associated material, continue to have effect *mutatis mutandis* in the *Al Hassan* case, in accordance with regulation 42(1) of the Regulations of the Court. Moreover, the Single Judge sees no need to revise these protective measures, as the security situation in Mali remains precarious and the witness must continue to be granted the same protective measures.

³² "Second Decision on the Prosecutor's requests for redaction", 16 December 2015, ICC-01/12-01/15-61, paras. 5 and 11-12.

³³ Prosecution Motion, paras. 2-3.

³⁴ [REDACTED].

³⁵ [REDACTED].

28. The Single Judge notes that the Prosecution Motion to disclose an updated anonymous summary raises three separate issues: (1) anonymity; (2) the submission of a summary; and (3) the update of this summary. The Single Judge will address these three issues in order.

29. With regard to the issue of *anonymity*, the Single Judge recalls the legal principles governing this matter, as expounded in his Decision of 19 July 2018, and considers that they also apply to the matter before him.

30. With regard to the submission of an *anonymous summary*, given that it is the first decision on this issue in this case, the Single Judge recalls the law applicable to this type of evidence.

31. The Single Judge thus recalls that the Prosecution may, under article 61(5) of the Statute, at the confirmation of charges hearing and with a view to confirming such charges, “rely on documentary or summary evidence and need not call the witnesses expected to testify at the trial”.

32. Similarly, pursuant to article 68(5) of the Statute relating to the protection of victims and witnesses:

[w]here the disclosure of evidence or information pursuant to this Statute may lead to the grave endangerment of the security of a witness or his or her family, the Prosecutor may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial.

33. The Single Judge also notes that the Appeals Chamber, in the *Lubanga* case, confirmed that

the use of summaries of witness statements and other documents at the confirmation hearing in relation to witnesses of the Prosecutor whose identities have not been disclosed to the defence prior to the confirmation hearing is, in principle, permissible under the Statute and the Rules of Procedure and Evidence³⁶

³⁶ *The Prosecutor v. Thomas Lubanga Dyilo*, “Judgment on the appeal of Mr Thomas Lubanga Dyilo against the decision of Pre-Trial Chamber I entitled ‘First Decision on the Prosecution Requests and Amended Requests for Redactions under Rule 81’”, 14 December 2006, French version registered on 20 February 2007, [ICC-01/04-01/06-773](#) (“Judgment of 14 December 2006”), para. 40.

and “is not *per se* prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial”, even though it may “affect the ability of the suspect pursuant to article 61(6)(b) of the Statute to challenge the evidence presented by the Prosecutor at the confirmation hearing”, insofar as “witnesses’ [...] identities are unknown to the defence”, and “the ability of the defence to evaluate the correctness of the summaries is restricted”.³⁷

34. In the light of the foregoing, thus, the Single Judge considers that the Prosecution may present summaries of evidence in the instant case at this stage of proceedings.

35. Nonetheless, although it authorized the use of anonymous statements at the pre-trial stage, the Appeals Chamber, in the same *Lubanga* judgment, made it clear that, in that event, the Pre-Trial Chamber would need to “[take] sufficient steps” to “ensure that summaries of evidence [...] are used in a manner that is not prejudicial to or inconsistent with the rights of the accused and with a fair and impartial trial”.³⁸ In so doing, the Pre-Trial Chamber will have to “take into account, *inter alia*, that the ability of the defence to challenge the evidence presented by the Prosecutor at the confirmation hearing is impaired”.³⁹

36. Given these conditions, the Single Judge wishes to recall that the various Pre-Trial Chambers have consistently stated that they attached lesser probative value to summaries of statements than to evidence given by witnesses whose identities

³⁷ [Judgment of 14 December 2006](#), para. 50.

³⁸ [Judgment of 14 December 2006](#), para. 51.

³⁹ [Judgment of 14 December 2006](#), para. 51.

were known to the defence,⁴⁰ that the summaries had to be corroborated,⁴¹ and that no conclusions could be drawn exclusively on the basis of anonymous hearsay evidence.⁴²

37. The Single Judge likewise recalls that the Pre-Trial Chamber in the *Lubanga* case considered that the Prosecution may not, at the confirmation of charges hearing, rely on any information which does not appear in this summary evidence and that, furthermore, summary evidence is drafted by the Prosecution, and that all these factors also have an impact on the probative value of the summary evidence.⁴³

38. The Single Judge additionally recalls that the Pre-Trial Chamber in the *Lubanga* case decided that it would determine the probative value of the statements that contain anonymous hearsay evidence “in light of other evidence which was also admitted for the purposes of the confirmation hearing” and that, “as a general rule, it will use such anonymous hearsay evidence only to corroborate other evidence”.⁴⁴ The Pre-Trial Chamber was thus of the view that lack of support or corroboration

⁴⁰ Pre-Trial Chamber II, *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang*, “Decision on the Confirmation of Charges Pursuant to Article 61(7)(a) and (b) of the Rome Statute”, 23 January 2012, French version registered on 12 September 2014, [ICC-01/09-01/11-373](#) (“Decision of 23 January 2012”), para. 78; *The Prosecutor v. Bahar Idriss Abu Garda*, “Decision on the Confirmation of Charges”, 8 February 2010, French version registered on 16 March 2010, [ICC-02/05-02/09-243-Red](#) (“Decision of 8 February 2010”), para. 52; Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gombo*, “Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo”, 15 June 2009, French version registered on 28 August 2009, [ICC-01/05-01/08-424](#) (“Decision of 15 June 2009”), para. 50; *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “Corrigendum to the Decision on Evidentiary Scope of the Confirmation Hearing, Preventive Relocation and Disclosure under Article 67(2) of the Statute and Rule 77 of the Rules”, 25 April 2008, French version registered on 22 July 2008, [ICC-01/04-01/07-428-Corr](#), para. 18. See also *The Prosecutor v. Callixte Mbarushimana*, “Decision on the confirmation of charges”, 16 December 2011, French version registered on 22 February 2012, [ICC-01/04-01/10-465-Red](#) (“Decision of 16 December 2011”), para. 49; *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, “Decision on the confirmation of charges”, 30 September 2008, French version registered on 11 January 2010, [ICC-01/04-01/07-717](#) (“Decision of 30 September 2008”), para. 160.

⁴¹ [Decision of 23 January 2012](#), paras. 78, 297; [Decision of 16 December 2011](#), para. 49; [Decision of 8 February 2010](#), para. 52; [Decision of 30 September 2008](#), para. 140.

⁴² [Decision of 30 September 2008](#), para. 140.

⁴³ *The Prosecutor v. Thomas Lubanga Dyilo*, “Decision concerning the Prosecution Proposed Summary Evidence”, 4 October 2006, French version registered on 6 February 2007, [ICC-01/04-01/06-517](#), p. 4.

⁴⁴ *The Prosecutor v. Thomas Lubanga Dyilo*, “Decision on the confirmation of charges”, 29 January 2007, [ICC-01/04-01/06-803-tENG](#), para. 106. See also [Decision of 30 September 2008](#), paras. 119, 138. See also [Decision of 8 February 2010](#), para. 52; [Decision of 23 January 2012](#), para. 78; [Decision of 15 June 2009](#), para. 158.

from other evidence in the record of the proceedings could affect the probative value of those summaries or statements".⁴⁵

39. In line with previous rulings,⁴⁶ this Chamber will ultimately take into account factors such as "the consistency of the information itself and its consistency with the evidence as a whole, the reliability of the source and the possibility for the Defence to challenge the source."⁴⁷

40. Above and beyond these considerations, the Single Judge notes the Defence's argument that the Prosecution should not be authorized to rely on evidence which cannot subsequently be used at the trial phase.⁴⁸

41. On that point, the Single Judge recalls that, while anonymous summaries are accepted during the pre-trial phase, the identities of the witnesses must be disclosed to the Defence when the trial begins.⁴⁹ The Prosecution may not rely on this evidence at trial without disclosing the identity of the witness to the Defence.

42. Lastly, with regard to the *update of the summary* concerning Witness P-0113, the Single Judge considers that the changes made to the summary do not constitute a variation in protective measures within the meaning of regulation 42(3) of the Regulations of the Court. In fact, in this instance, it is not a matter of varying the protective measure itself – for example, replacing the submission of an anonymous

⁴⁵ [Decision of 30 September 2008](#), para. 160. In *Ruto and Sang*, the charges against a suspect were not confirmed, as testimony from an anonymous witness was not sufficiently corroborated by other evidence, and the redaction of the dates of the meetings prevented the suspect from challenging several statements. Pre-Trial Chamber II, *The Prosecutor v. William Samoei Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, "Decision on the Confirmation of Charges", dated 23 January 2012, French version registered on 9 December 2014, [ICC-01/09-01/11-373](#), para. 297.

⁴⁶ *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*, "Decision on the confirmation of charges", 30 September 2008, French version registered on 11 January 2010, [ICC-01/04-01/07-717](#) ("Decision of 30 September 2008"), paras. 159-160; [Decision of 15 June 2009](#), para. 49; [Decision of 8 February 2010](#), paras. 49-51; *The Prosecutor v. Abdallah Banda Abakaer Nourain*, "Corrigendum of the 'Decision on the Confirmation of Charges'", dated 7 March 2011, French version registered on 2 August 2012, ICC-02/05-03/09-121-Corr-Red, para. 41. See also, [Decision of 16 December 2011](#), para. 49; Pre-Trial Chamber II, *The Prosecutor v. Uhuru Muigai Kenyatta and Mohammed Hussein Ali*, 23 January 2012, French version registered on 11 December 2014, [ICC-01/09-02/11-382-Red](#), para. 90.

⁴⁷ [Decision of 30 September 2008](#), para. 141.

⁴⁸ Defence Response, paras. 38-39 and reference cited.

⁴⁹ Trial Chamber, *The Prosecutor v. Dominic Ongwen*, "Decision on Disclosure of Victims' Identities", 17 June 2016, [ICC-02/04-01/15-471](#), para. 13.

summary of a statement with redactions – but updating the actual summary by adding information taken from other documents.

43. Accordingly, as explained in paragraph 27 above, since the protective measures ordered in the *Al Mahdi* case, and specifically the submission into the record of an anonymous summary of a statement, are maintained in the instant case, the Single Judge considers that entering an updated summary is possible in the present case, subject to the reservations expressed above.

(iii) *Prosecution request for non-disclosure of the first summary, as disclosed in the Al Mahdi case*

44. The Single Judge notes that in its Motion, the Prosecution seeks authorization to not disclose the anonymous summary of Witness P-0113's statement, as disclosed in the *Al Mahdi* case.⁵⁰

45. Given that the disclosure of summary evidence relating to Witness P-0113 is authorized and that the first summary concerned the *Al Mahdi* case, the Single Judge decides that the Prosecution is not required to disclose it in the present case.

46. The Single Judge therefore authorizes the non-disclosure of the first anonymous summary, as disclosed in the *Al Mahdi* case.

(iv) *Prosecution request for the non-disclosure of the investigation note [REDACTED]*

47. The Single Judge notes that in its Motion, the Prosecution seeks the non-disclosure of the investigation note [REDACTED].⁵¹

48. The Single Judge notes that he authorized the Prosecution to submit a summary on the basis of evidence provided by Witness P-0113, including said investigation note. Consequently, as it is evidentiary material which was part of the

⁵⁰ Prosecution Request, para. 4 [REDACTED].

⁵¹ Prosecution Request, para. 4 [REDACTED].

summary as authorized, this investigation note will not be disclosed but included in this summary.

49. In any event, the Single Judge notes that rule 81(1) of the Rules provides that the internal documents prepared by a party, its assistants or representatives in connection with the investigation or preparation of the case are not subject to disclosure. In previous rulings, the Court has considered that investigation notes fall under this category of internal documents.⁵²

50. Accordingly, in this instance, the investigation note is considered to be part of the Prosecution's internal documents and need not be disclosed.

(v) *Confidentiality*

51. The Single Judge notes that the present decision is issued as "confidential". He nonetheless is of the view that, to ensure that the proceedings are public, a public version of this decision should be filed. To that end, he instructs the parties to file a public redacted version of their submissions and to submit to him proposals for redaction. On this basis, the Single Judge will issue a public redacted version.

⁵² See, for example, Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, "Public redacted version of 'Decision on Defence requests regarding certain materials related to P-0190 and P-0899'", 6 July 2016, ICC-01/04-02/06-1440-Red, paras. 27 and 31; Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, "Decision on Defence requests for further disclosure", ICC-01/05-01/08-3336, 9 March 2016, para. 12 and reference cited.

FOR THESE REASONS, the Single Judge

REJECTS the Defence request to order the Prosecution to provide a lesser redacted version of its Motion;

GRANTS the Prosecution Motion;

RECALLS the continuation of protective measures previously ordered for Witness MLI-OTP-P-0113;

AUTHORIZES the Prosecution to disclose the summary evidence relating to Witness MLI-OTP-P-0113 [REDACTED];

AUTHORIZES the Prosecution not to communicate the anonymous summary concerning Witness MLI-OTP-P-0113, as disclosed in the *Al Mahdi* case;

AUTHORIZES the Prosecution not to disclose the investigation note [REDACTED];

INSTRUCTS the parties to file a public redacted version of their submissions and to submit to him proposals for redactions within 10 days of notification of the present decision.

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

[signed]

Judge Péter Kovács

Single Judge

Dated this 27 September 2018

At The Hague, Netherlands