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Date: **24 January 2022**

**TRIAL CHAMBER VI**

**Before:** Judge Miatta Maria Samba, Presiding Judge  
Judge Maria del Socorro Flores Liera  
Judge Sergio Gerardo Ugalde Gordinez

**SITUATION IN THE CENTRAL AFRICAN REPUBLIC II  
IN THE CASE OF *PROSECUTOR v. MAHAMAT SAID ABDEL KANI***

**Public**

**Public Redacted Version of "Prosecution's submissions pursuant to the "Order scheduling first status conference"', ICC-01/14-01/21-230-Conf, dated 21 January 2022**

**Source:** Office of the Prosecutor

**Document to be notified in accordance with regulation 31 of the *Regulations of the******Court to:*****The Office of the Prosecutor**

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## I. INTRODUCTION

1. The Prosecution provides the following submissions on the agenda items for the first status conference, pursuant to Trial Chamber VI's ("Chamber") order of 14 January 2022 ("Scheduling Order").<sup>1</sup>

## II. CONFIDENTIALITY

2. This document is filed confidential pursuant to regulation 23*bis*(1) of the Regulations of the Court, as it contains sensitive information relating to the Prosecution's witnesses and its ongoing focused investigations. A public redacted version of this document will be filed simultaneously.

## III. SUBMISSIONS

### A. Commencement date of the trial

3. For the reasons detailed in these submissions, the Prosecution requests that the trial be set to start no earlier than Monday, 10 October 2022. By suggesting 10 October, the Prosecution is also mindful that respecting the period of approximately three months normally afforded to the Defence to conclude its trial preparation, the Chamber would order that all material to be relied on for the presentation of its case be disclosed by 8 July 2022. That would be less than 6 months from now.<sup>2</sup>

4. Considering the tasks that have to be completed by the Prosecution prior to trial and, the last disclosures that would be normally set to around 8 July 2022, the Prosecution submits that 10 October 2022 is a reasonable date for the commencement of the trial. The proposed date would allow the Prosecution to efficiently discharge its disclosure obligations and to prepare time consuming submissions, such as for instance, the submission of omnibus applications pursuant to rule 68(2)(b), 68(2)(c), and 68(3) of the Rules of Evidence and Procedure ("Rules") and Bar Table motions.<sup>3</sup> The proposed date would also afford the Defence sufficient time to prepare for trial.

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<sup>1</sup> ICC-01/14-01/21-226.

<sup>2</sup> See e.g. ICC-01/12-01/18-548, paras. 8, 24.

<sup>3</sup> See below at paras. 15, 16-18.

The completion of these envisaged submissions before the start of the trial would allow for a more efficient and expeditious presentation of the Prosecution's case. Additionally and despite the ongoing challenges associated with the COVID-19 pandemic, the proposed timeframe is also consistent with the practice of the Court and the fair trial rights of Mr SAID.

5. Mr SAID was arrested in the Central African Republic ("CAR") on 20 January 2021 and has been at the ICC detention centre since 25 January 2021. The proposed start date would result in his trial commencing less than 21 months after his arrest, and earlier than for any other accused subject to charges pursuant to Article 5 of the Rome Statute ("Statute") where a plea agreement was not reached.<sup>4</sup>

6. The Prosecution notes that Trial Chamber I recently set the trial date in the *Abd-Al-Rahman* case around 9 months after the confirmation decision was issued. However, it is submitted that an extra month is warranted in the case against Mr SAID since the evidence collection in the CAR situation is almost four times larger than in the Darfur situation.<sup>5</sup> [REDACTED].<sup>6</sup>

7. As further detailed in this submission, the Prosecution has to complete the following trial-preparation tasks:

- (i) further assess materials in its possession in light of the evolution of the case, the charges as confirmed and the Prosecution's ongoing investigations, including the individual risk assessments linked to disclosure and the implementation of any necessary protective measures;
- ii) complete its investigations;

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<sup>4</sup> The proposed timeframe would render the overall time period between Mr SAID's transfer to the custody of the Court and the commencement of the trial 20.5 months, less than any other Article 5 case, with the exception of *Al Mahdi*, where the accused entered into a plea agreement. See *Abd-al-Rahman* (approx. 22 months), *Yekatom & Ngaissona* (approx. 27 months for Yekatom and 25 months for Ngaissona), *Al Hassan* (approx. 27 months), *Al Mahdi* (who was subject to a plea agreement) (11 months), *Gbagbo & Blé Goudé* (approx. 50 months for Gbagbo and 22 months for Blé Goudé), *Ntaganda* (approx. 29 months), *Ongwen* (approx. 22 months), *Ruto & Sang* (approx. 29 months from initial appearance), *Katanga & Ngudjolo* (approx. 25 months for Katanga and 21 months for Ngudjolo), and *Lubanga* (approx. 34 months).

<sup>5</sup> See overview figures below at para. 28 (reporting 136,845 items in the CARII collection relevant to this case). Cf. *Abd-al-Rahman*, ICC-02/05-01/20-464-Red2, 1 September 2021, para. 24 (reporting 36,750 items in the collection relevant to that case),

<sup>6</sup> [REDACTED].

- (iii) complete its review and disclosure obligations including the re-disclosure of lesser redacted versions of items already disclosed;
- (iv) provide translation of evidence where required;
- (v) submit requests for admission of prior recorded testimony under rule 68, to the maximum extent possible, preferably in omnibus applications;
- (vi) submit, to the extent possible, bar table motions seeking the admission of non-testimonial evidence;
- (vii) provide a trial brief and summaries of the anticipated testimony of its trial witnesses;
- (viii) conduct discussions with the Defence regarding agreed facts under rule 69, and possible joint instruction of experts; and
- (ix) obtain expert reports further to joint or separate instructions.

These tasks will further have to be completed while preparing other aspects of the trial and with the current resources at the Prosecution's disposal.

## **B. Anticipated evidence**

### **1) *Estimated number of witnesses to be called and number of hours of in-court testimony***

8. Subject to its further investigations and the potential addition of witnesses, the Prosecution intends at present to rely on the evidence of 102 witnesses at trial.<sup>7</sup> These include 18 witnesses who provide evidence as to the acts and conduct of the Accused related to the OCRB charges; 32 other OCRB-related witnesses, including numerous victim-witnesses; and approximately 52 witnesses whose evidence is necessary to prove the chapeau elements of crimes against humanity and war crimes.

9. This anticipated trial witness list has been substantially reduced compared with the number of witnesses relied upon to confirm the charges related to the OCRB detention site.<sup>8</sup> This list is also to be considered preliminary and subject to further

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<sup>7</sup> Of these witnesses, the vast majority – with the exception of three witnesses – [REDACTED] – were also relied on for the confirmation of charges.

<sup>8</sup> The witness list of the Prosecution for Confirmation included 173 witnesses. 47 of these witnesses related only to the CEDAD incident.

review. The Prosecution is diligently assessing its evidence to further streamline the presentation of its case and proceedings.

10. At present, the Prosecution plans to rely on roughly the same amount of witnesses to prove the chapeau elements of the case as it did at the confirmation of charges hearing. This part of the case remains the same after the Confirmation of Charges decision, and the Prosecution bears the burden to prove the chapeau elements. This part of the case was also the subject of specific challenges by the Defence during the confirmation of charges hearing. However, the Prosecution will nevertheless endeavour to establish, through *inter partes* discussions, if any of the key facts of the chapeau elements can be agreed by the Parties to further streamline this part of the case.

11. As indicated at paragraphs 16-17 below, the Prosecution intends to present the live testimony<sup>9</sup> of around 46 witnesses and to seek the submission of the evidence of the remainder, including most of the “chapeau” witnesses, under rule 68(2).<sup>10</sup> Without presuming any decision of the Chamber on the matter, the Prosecution estimates that should the rule 68 applications be granted, the estimated hours needed for the live testimony of witnesses would be approximately 210 hours.<sup>11</sup>

## 2) *Use of expert witnesses*

12. The Prosecution is currently considering calling two expert witnesses in the following areas of expertise:

- *Torture method of the arbatachar;*
- *Trauma related to torture and other forms of serious mistreatment.*

13. The Prosecution is in the process of identifying relevant experts in these areas of expertise and will endeavour, in consultation with the Defence, to jointly instruct the said experts in the interests of justice and judicial economy.

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<sup>9</sup> Live witnesses are witnesses that provide *viva voce* evidence and includes rule 68(3) witnesses.

<sup>10</sup> The remaining evidence of 56 witnesses.

<sup>11</sup> On average, the Prosecution estimates 3-4 hours for its examination of a typical victim-witness and 8-9 hours for examination of a typical insider.

### 3) *Testimony given by video link*

14. The Prosecution intends to call [REDACTED] live witnesses to testify via video link (“AVL”). The ongoing COVID-19 pandemic will continue to have serious repercussions on international travel, making it difficult to plan and efficiently organise witness travel for trial. In the *Yekatom & Ngaissona* case, the video link testimony [REDACTED] has been applied successfully. [REDACTED].

### 4) *Estimated volume of documentary and other non-testimonial evidence to be relied upon at trial*

15. The Prosecution estimates that it will rely upon approximately 350 items of documentary and other non-testimonial evidence. Of these, 264 items were relied on for the purposes of the confirmation of charges. This number is an estimate since the Prosecution’s investigations are ongoing. However, the number of documents should not increase unreasonably.

### 5) *Use of rule 68 of the Rules*

16. As indicated above in paragraph 11, the Prosecution currently plans to call approximately 46 witnesses to give live testimony. The Prosecution intends to conduct a direct examination of approximately 30 witnesses and to request that 16 other witnesses be heard pursuant to rule 68(3). In relation to any rule 68(3) witness, the Prosecution would seek to conduct a limited supplementary examination-in-chief, which would last, on average, one hour.

17. The Prosecution intends to seek the introduction of previously recorded evidence under rule 68(2) for approximately 56 witnesses. Of those 56 witnesses, the Prosecution will seek to introduce the evidence of approximately 6 witnesses as rule 68(2)(c) and 50 witnesses as rule 68(2)(b). Rule 68 is widely acknowledged as a useful tool to expedite and streamline the proceedings and its use has been encouraged by other Chambers.<sup>12</sup> In the case at hand, the Prosecution will seek the application of this rule to streamline the presentation of its evidence, focus live testimony on those topics of

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<sup>12</sup> ICC-1/14-01/18-685, para. 26. See also ICC-01/04-02/06-1342, para. 15 ; ICC-01/12-01/18-1924-Anx 15.

greatest relevance to the proceedings, minimise cumulative in-court testimony on aspects which are expected to also be addressed by other witnesses, and save resources of the Court which may rather be utilised for other purposes. Accordingly, rule 68(2) will be chiefly used in support of testimony which will be heard live by the Chamber, and therefore, subject to cross-examination, and mainly offered to further substantiate the chapeau elements of the article 5 crimes charged. While the principle of orality, as enshrined in some legal traditions, is referenced in article 69(2) of the Statute, it is specifically made subject to article 68 of the Statute and to provisions in the Rules of Procedure and Evidence. The application of rule 68 of the Rules, where appropriate, correctly reflects the multitude of legal systems which allow for evidence to be adduced other than through in-person testimony.

18. The Prosecution intends to submit the summaries of *all* trial witnesses together with the proposed rule 68 applications in order to provide the Chamber with an holistic view of the Prosecution's case when assessing the merits of the rule 68 applications. Further, the Prosecution plans to submit the requests pursuant to rule 68 prior to the commencement of trial by way of omnibus requests. Concerning the certification process under rule 68(2), the Prosecution would seek to follow the remote certification processes as endorsed in the *Al-Hassan* case.<sup>13</sup>

### **C. Agreed facts under rule 69 of the Rules**

19. Prior to the confirmation of charges, the Prosecution and Defence did not agree on facts. On 19 January 2022, the Prosecution submitted to the Defence a first list of 33 proposed facts with the aim of starting the process on the subject matter.

### **D. Languages to be used by the parties, participants and the witnesses the parties intend to call**

20. The Prosecution will use the working languages of the Court.

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<sup>13</sup> See ICC-01/12-01/18-1111-Red, para. 18.

21. As noted, the Prosecution currently intends to rely on the evidence of 102 witnesses at trial. Of those, 6 witnesses are deceased. The mother tongue of the remaining witnesses is as follows: 7 witnesses speak French, 88 witnesses speak Sango, 1 witness speaks Arabic.

22. The determination of the witnesses' spoken languages is derived from the languages used by the witnesses during their interviews and the information currently available to the Prosecution. The Prosecution will confirm with the witnesses the language they wish to use for their testimony in court and will update the Chamber accordingly.

**E. Disclosure of outstanding material in the Prosecution's possession and related issues**

**1) *Whether the Prosecution's investigations are still ongoing***

23. The Prosecution's investigations have been faced with significant and unprecedented challenges due to the COVID-19 pandemic.<sup>14</sup> Following the arrest of Mr SAID, the on-going investigation continued to be severely hindered by travel restrictions imposed by the pandemic, including restrictions on the deployment of investigators, interpreters [REDACTED]. Currently, pursuant to the UN rules followed by the Court, all ICC staff traveling to the CAR need to first quarantine for 7 days, and only upon a negative PCR test after this period, can they start their missions.

24. [REDACTED].

25. The confirmed cases and deaths numbers shown in the CAR are highly likely to be misleading and might not depict the true extent and direction of COVID-19 impact in CAR. The vaccination rate in the CAR is at only 8%. Covid-19 cases are increasing at an alarming rate with the new variant Omicron. Local authorities continue to struggle to contain the effect of the pandemic notably due to the minimal medical resources available and the noncompliance of anti-COVID measures by the population

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<sup>14</sup> See [REDACTED].

who continue, for example, to attend funeral ceremonies and wedding ceremonies in great numbers.

26. Under these challenging circumstances, the Prosecution continues to conduct further focused investigations that are necessary in particular to: [REDACTED]. The objective of these investigative steps is to ensure that the Trial Chamber is provided with relevant and probative evidence necessary to its determination of the truth.<sup>15</sup>

27. The Prosecution estimates that these investigative steps could take a number of months considering the ongoing COVID-19 pandemic. However, they would be completed sufficiently in advance of the proposed date for the commencement of the trial, in order not to prejudice the Defence.

2) *Timing and volume of disclosure of outstanding evidence pursuant to article 67(2) of the Statute and rules 76 and 77 of the Rules*

28. To date, the Prosecution has collected and is in possession of 136,845 items in its CARI situation evidence Ringtail database, totalling 433,735 pages. Of these, all materials directly relevant to the charged incident against Mr SAID have been reviewed, and 12,382 items disclosed. 1,151 items of these are witness statements/transcripts/screenings or translations of such materials. The disclosed evidence includes 2 items disclosed as potentially exonerating pursuant to article 67(2) of the Statute and 4,166 items disclosed pursuant to rule 77 of the Rules and 144 items under the category OTHER.<sup>16</sup>

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<sup>15</sup> The Prosecution recalls that the Statute allows for post-confirmation investigations (*see* ICC-01/04-01/06-568, paras. 52, 54; ICC-01/09-02/11-728, paras. 118, 120; ICC-01/14-01/18-517, para. 25), in particular when circumstances justify a continuation of investigation such as those prevailing in this case where the COVID-19 pandemic has had an unprecedented impact on the ability to organise and conduct field investigations. In comparison to previous years, in 2020 and 2021, the Prosecution was only able to conduct on average a third of its missions.

<sup>16</sup> This category “other” materials has been chosen by the Prosecution to classify items for disclosure, which cannot *prima facie* be considered Rule 77 per definition, but which are provided for the sake of completeness as part of its ongoing review, *see* for example Prosecution’s Communication of the Disclosure of Evidence on 21 September 2021, ICC-01/14-01/21-174. While the Prosecution’s statutory obligations only extend to materials falling within article 67(2) and/or rules 76 and 77, the Prosecution is not precluded from disclosing beyond these categories and seeks to provide the Defence with a complete picture as possible of the available materials, especially as it cannot foresee the lines of the future Defence case at this point in the proceedings. *See* for the applied definition of rule 77 of the Rules, ICC-01/14-01/21, para. 6, citing ICC-01/12-01/18-895-Red, para. 10.

29. During the pre-confirmation phase, the Prosecution took particular steps designed to ensure that the material most important for the Defence was prioritised for review and disclosed in advance of the confirmation hearing. Thus, when a witness statement was identified for disclosure, all annexes, prior screenings, and related reports were also disclosed. If a document was relied upon, the relevant chain of custody information was also provided. Accordingly, the Defence is currently in possession of the core evidence and most of the essential material necessary for their preparation. Nevertheless, the Prosecution has the obligation and duty to ensure that the entirety of its evidence collection is reviewed for disclosure, and this is an unavoidably time-consuming exercise considering the unprecedented size of the collection.

*a) Witness materials*

30. The Prosecution has concluded its review of all witness interviews registered in the entire CARII situation collection and has identified approximately 172 witnesses, 142 of which were only screened,<sup>17</sup> who provide information, which could fall under rule 77, hold additional incriminatory information, or be of other relevance to the case.<sup>18</sup> However, none of the said witness evidence contains *per se* article 67(2) evidence. These witnesses do not have a direct connection to the crimes charged against Mr SAID and were consequently not part of the pre-confirmation review conducted by the Prosecution. The disclosure of these witness screenings and interview is being made out of an abundance of caution and will be provided to the Defence, with redactions where appropriate.

31. The materials related to these witnesses amount to approximately 8,300 pages. The witnesses have to be informed of the disclosure of their statements or screenings and a security assessments conducted prior to the disclosure of the said statements.

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<sup>17</sup> A screening is a pre-interview to determine if the witness has information relevant to the situation under investigation. On average a screening is 3 pages in length.

<sup>18</sup> See above at fn. 16.

With the team's current resources this process alone is anticipated to take the trial team three months.

*b) Non-witness related documents<sup>19</sup>*

32. Additionally, the Prosecution will review non-witness related evidence registered in the CARII collection, which yielded results in key word searches (approximately 40,000 items). These items are not expected to have any direct connection to the charges against Mr SAID but are nevertheless reviewed to ensure that no information, which could be material to the preparation of the Defence has been overlooked. The result of these searches will have to be reviewed within the months prior to the start of trial to ensure that the Prosecution has met its disclosure obligations. With the current resources available, this review cannot be conducted entirely simultaneously to the disclosure review estimated for the outstanding witness materials. Consequently, this review is estimated to take an additional three months.

33. The Prosecution is also re-assessing the previously reviewed but undisclosed items in its evidence collection using updated keywords searches reflecting the recent developments of the case. The purpose of this additional review is to ensure that all materials that may have become relevant as the case evolves are also disclosed in accordance with the Prosecution's ongoing disclosure obligations.

*c) Lifting of redactions*

34. Further, 1,947 items (or 30,364 pages) were disclosed to the Defence with redactions. The Prosecution has to re-review those items with a view to lift redactions that are no longer necessary.<sup>20</sup> As the Chamber is aware, the review of redactions is a detailed and time-consuming process, involving multiple layers of review and technical processing. With the team's current resources, this redaction review process alone would require 1,5 months to complete.

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<sup>19</sup> The Prosecution notes that this topic may have to be discussed in private or *ex parte* if need be.

<sup>20</sup> ICC-01/14-01/18-64-Red, para. 31.

### 3) *Transcription and translation issues*

35. Pursuant to the previous decision of the Pre-Trial Chamber related to translation, the Prosecution has translated all witness statements it relied upon for the Confirmation of Charges hearing into French.<sup>21</sup> Further, the Prosecution is seeking to interview any additional witnesses in French. In keeping with this approach, currently there is only one outstanding translation of a statement of a witness who the Prosecution will seek to rely on at trial.

### 4) *Protective measures of witnesses*

36. The Prosecution is conducting individual risk assessments for newly interviewed witnesses on a rolling basis, and is disclosing the identities of these witnesses upon assessment that the protection measures in place are sufficient to mitigate the risk linked to disclosure. Based on the information currently available, the Prosecution anticipates that it will be able to disclose the identities of all of the witnesses on its anticipated trial witness list at least three months in advance of its proposed commencement date for trial.

37. [REDACTED]. The Prosecution will keep the Chamber apprised of this matter, as necessary.

38. The Prosecution anticipates that a significant number of witnesses will require in-court protective measures under articles 68(1) and (2) of the Statute, and rule 87 and special measures under rule 88 of the Rules. [REDACTED].

### 5) *Disclosure of witnesses' identities which have been withheld from the Defence*

39. The identities of [REDACTED] witnesses are currently undisclosed.<sup>22</sup> Of these, all statements and related materials were disclosed with redactions applied to their identifying information.<sup>23</sup> One of these witnesses will be relied upon at trial

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<sup>21</sup> See ICC-01/14-01/21-86, para. 31.

<sup>22</sup> [REDACTED].

<sup>23</sup> See ICC-01/14-01/21-145+Conf-Anxs (Pre-Confirmation INCRIM package 043 on 16 August 2021).

([REDACTED]). Efforts remain ongoing to ensure measures are in place to ensure full disclosure of the witnesses identity in a reasonable time before start of the testimony.

**6) *Disclosure of material obtained pursuant to article 54(3)(e) of the Statute***

40. No material, which may be the subject of article 54(3)(e), is to be disclosed in this case.

**F. Disclosure by the Defence, including whether the Defence intends to advance a defence in accordance with rules 79 and 80 of the Rules**

41. Should the Defence wish to advance a defence in accordance with rules 79 and 80 of the Rules at trial, a time limit should be set for the Defence to do so sufficiently in advance of the commencement of the trial, in order to allow the Prosecution to adequately respond and to accordingly prepare.

42. Pursuant to rule 79(2) of the Rules, the notification of grounds for exclusion of criminal liability falling under rule 79(1), namely the grounds provided for in article 31(1), “shall be given sufficiently in advance”. Rule 80(1) of the Rules refers to article 31(3) of the Statute, which includes grounds for excluding criminal responsibility other than the ones falling under article 31(1). Pursuant to rule 80(1), notice of the latter grounds should be done “sufficiently in advance of the commencement of the trial”.

43. Trial Chambers have consistently interpreted this to mean that notifications of grounds excluding criminal liability should be given prior to the commencement of trial.<sup>24</sup> The jurisprudence of the Court establishes that providing such advance notification is necessary to allow the Prosecution to adequately respond to the Defence and prepare its case accordingly, which lessens the possibility of delays that would affect the fair and expeditious conduct of the trial.<sup>25</sup>

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<sup>24</sup> ICC-02/04-01/15-460, para. 8. *See also* ICC-01/04-01/06-1235-Corr-Anx 1, para. 29(b); ICC-01/05-01/13-1209, para. 8.

<sup>25</sup> ICC-02/04-01/15-460, para. 9.

## **G. Provision of trial briefs**

44. The Prosecution supports the provision of a trial brief, which it considers to be useful to the Chamber, as well as the Defence and participants.

## **H. Motions requiring resolution prior to the commencement of trial**

45. The Prosecution suggests setting a deadline of 45 days prior to the commencement of the trial for filing of all motions requiring resolution prior to the commencement of trial.<sup>26</sup> This would allow enough time for the Parties and participants to respond and the Chamber to dispose of any such motions in advance of the trial.

## **I. Estimated length of opening statements**

46. The Prosecution estimates that it would require 4,5 hours for its opening statement. While the Prosecution's case is focused on one incident, this incident includes several sub-incidents and episodes of severe mistreatment. In addition, the chapeau elements of crimes against humanity and war crimes will need to be addressed, which include additional incidents relevant to proving these elements of crimes.

## **J. Update and forecast on additional applications by victims to participate in the proceedings**

47. The Prosecution defers to the Registry to report on this topic.

## **K. Other issues**

### **1) *Protocols***

48. The Prosecution is operating under the assumption that the protocols adopted by the Pre-Trial Chamber relevant to standard redactions and confidentiality obligations

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<sup>26</sup> See e.g. in *Al Hassan*, Trial Chamber X scheduled the commencement of the trial on 14 July 2020 and set the date of 1 June 2020 as a deadline for submissions of motions requiring resolution prior to the commencement of trial, ICC-01/12-01/18-548, p. 9.

continue to apply.<sup>27</sup> This will ensure continuity of established practice and streamline the proceedings.

49. The Prosecution will prepare further submissions related to the conduct of proceedings when provided the opportunity, including in relation to witness preparation and other issues.

## 2) *Appointment of an alternate Judge*

50. Even though the Prosecution will seek to streamline the proceedings as outlined above and the case only involves one Accused, the Chamber should consider requesting the appointment of an alternate judge to the proceedings pursuant to article 74(1) of the Statute. An alternate designation is justified by the ongoing COVID-19 pandemic, the uncertainty of its course, and the inherent risks to the proceedings should an incumbent judge of the Chamber fall seriously ill or otherwise be unable to attend the proceedings for any extended period of time. Although no such designation has yet been made at the Court, the Prosecution wishes to alert the Chamber to this possibility.

## 3) *On-site visit of the Trial Chamber*

51. The Prosecution encourages the Chamber to consider conducting an on-site visit to the main sites relevant to the Prosecution's case. This includes first and foremost the detention centre of the OCRB in Bangui. The Prosecution will present photographs and video imagery of this site produced during a forensic crime scene investigation at the trial. However, should the COVID-19 pandemic and overall security situation in CAR allow, a site visit at the outset of the proceedings, potentially after the opening statements, would enable the Chamber to appreciate firsthand the specific site, of the OCRB, including its cells and buildings described by Prosecution witnesses. Other sites of interest could also be visited such as the locations that form part of the Chapeau elements of the crimes against humanity and war crimes.

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<sup>27</sup> See ICC-01/14-01/21-50-Conf; Chambers Practice Manual (2019), para. 94.

#### 4) *Corrections to transcripts of court hearings*

52. While this matter may be addressed in further detail closer to the start date of the trial in the context of a discussion on the conduct of the proceedings, the Prosecution considers it appropriate to provide early notice of the matter so that it can be duly considered.<sup>28</sup> This is all the more important as the proceedings will involve translations required from Sango to French as well.

53. Practice has shown that correction of transcripts of the court hearings is a time-consuming exercise that requires the Parties to devote excessive additional time and resources to perform a quality check of transcripts which detracts from the substantive work required at the trial phase. Most of the corrections made could be easily verified by a simple review of the audio/video recordings of the hearings by the Registry.

54. The Prosecution does not object to assisting the Registry as necessary to ensure the accuracy of the transcripts, for example, to assist with the correct spelling of names or locations, but it does not consider that the Parties should be required to do additional tasks which are normally the responsibility of the transcribers themselves as part of their normal duties.

55. As such, the Prosecution submits that the Registry has the means to ensure corrections are properly made and quality control is completed prior to sending the transcripts to the parties for a final check. As noted, the hearings are audio and video recorded, and transcribers can review the recordings to ensure that the transcripts are true to the record. Having said that, the Prosecution is willing to help when required, including by (1) providing a glossary of names of persons and locations to ensure that these names are transcribed accurately, and (2) clarifying any issues that may remain unclear to the transcribers even after duly checking the audio and video recordings.

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<sup>28</sup> The Prosecution understands that this issue is subject to discussions with the Registry in the context of other cases.

#### IV. CONCLUSION

56. The Prosecution submits the above observations in preparation for the scheduled status conference and stands ready to provide any further information as may be required.

A handwritten signature in black ink, appearing to be 'K.A.K.', with a horizontal line underneath it.

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**Karim A. A. Khan QC, Prosecutor**

Dated this 24<sup>th</sup> day of January 2022

At The Hague, The Netherlands