

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original: English

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

Date: 20 May 2020

TRIAL CHAMBER X

Before: Judge Kimberly Prost, 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

With four Confidential Annexes I-III and V and one *EX PARTE* Confidential Annex IV only available to the Registry and the Common Legal Representatives of Victims

Registry's Observations on methods of work to minimise the impact of COVID-19 and related measures on the conduct of proceedings (ICC-01/12-01/18-776)

Source: Registry

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

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I. Introduction

1. Pursuant to the order issued by the Single Judge of Trial Chamber X of and the International Criminal Court (“Chamber” and “Court”, respectively) on 29 April 2020 (“Order”),¹ in the case of *The Prosecutor vs Mr Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud* (“Mr Al Hassan”), the Registry provides information on methods of work to minimise the impact of COVID-19 (“Pandemic”) and related measures on the conduct of proceedings.
2. As per the Order, this information pertains to matters regarding (1) the current situation and projected situation in terms of the COVID-19 measures over the next six months (i) in the Kingdom of The Netherlands (“host State”) and (ii) in the Republic of Mali (“Mali”), (2) the feasibility of field missions in the next four months, (3) concrete proposals for the holding of a status conference in June 2020, (4) other Registry’s activities impacted by the Pandemic, and (5) the feasibility of hearing *viva voce* testimonies *via* video-link from Mali or other witnesses’ locations (i.e. witnesses’ appearance *via* video-link technology). Specifically under point (4) above, the Registry updates the Single Judge on matters relating to (i) the process for victims to submit applications for participation, (ii) the publicity of proceedings and (iii) translation.
3. The Registry has, as appropriate, consulted with the parties and participants and, to the extent possible, agreed to submit proposals² on matters relating to points (3), (4)(i) and (5) above. The Registry’s submissions below are subject not only to the evolution of the Pandemic situation but also to successful outcome of the required operational and logistical support of judicial proceedings.

¹ Single Judge, Trial Chamber X, “Order to provide information on methods of work to minimise the impact of COVID-19 and related measures on the conduct of proceedings” (“Order”), ICC-01/12-01/08-776, 29 April 2020.

² Order, para. 6.

II. Classification

4. In accordance with regulation 23 *bis*(1) of the Regulations of the Court (“RoC”), the Annexes I-III and V to the present observations are classified as confidential, as they refer to information with the same level of classification or to internal Registry’s procedures. Annex IV is classified confidential *ex parte* only available to the Registry and the Common Legal Representatives of Victims, as it provides information relating to the *modus operandi* within the Registry and/or between the Registry and victims, intermediaries and/or local interlocutors. Public and confidential redacted versions of Annex IV will be filed simultaneously.

III. Submissions

1. Current situation in terms of COVID-19 measures and projected situation over the next six months

(i) *In the host State*

1. The host State issued a new advisory on 11 May 2020 relaxing certain measures against COVID-19 (“11 May Advisory”).³ Among others, the following measures remaining in place will have an impact on the trial proceedings in the present case.⁴

- i. *Basic rules for everyone:* avoid busy places; work from home if possible; keep a distance of 1.5 metres from other people; stay at home when having cold-like symptoms; and stay at home if a member of household has a fever and/or shortness of breath.

³ Government of the Netherlands, “Changes to the coronavirus control measures from 11 May 2020”, at <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/changes-to-measures-from-11-may>.

⁴ Government of the Netherlands, “Moving step by step towards more freedom in public life”, at <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/public-life>.

- ii. *Rule for buildings open to public:* As of 1 June 2020, buildings that are open to the public can admit up to 30 people at a time, not counting staff. People must still stay 1.5 metres apart.⁵
- iii. *Rules for public events:* No organised gatherings may be held with a number of exceptions, including necessary gatherings to ensure the continued daily operation of institutions, businesses and other organisations. The event must not exceed 100 people. Participants must stay at least 1.5 metres away from one another. The authorities will monitor compliance with this rule and enforce it where necessary; and in principle, all live events are banned until 1 September 2020. A decision regarding other events will be taken before 1 September 2020.
- iv. *Travel requirements:* only essential travel abroad is allowed;⁶ the Schengen area and the United Kingdom of Great Britain and Northern Ireland ("UK") have closed their external borders to people from outside the European Union ("EU") whose journey is not essential. This travel ban applies until and including 15 June 2020. This travel ban does not apply to the citizens of the EU and UK, person with valid residence permit, and person with essential purpose or demand;⁷ Everyone flying to the host State from a high-risk area where there is a

⁵ Government of the Netherlands, "Tackling coronavirus: the next step", 19 May, at <https://www.government.nl/topics/coronavirus-covid-19/news/2020/05/19/tackling-coronavirus-the-next-step>.

⁶ In addition, Air France has announced that since the outbreak of the COVID-19 crisis, Air France has been adapting its network and flight schedule in real-time in line with travel restrictions and demand. Since end-March, Air France is operating between 3 and 5% of its usual schedule, in order to maintain a service to the French regions and links with key destinations in Europe and worldwide, to transport passengers and goods. In this capacity, we currently serve 43 destinations. See https://www.airfrance.nl/NL/en/common/page flottante/hp/news-air-traffic-air-france.htm?_ga=2.209870997.1263907386.1589968895-1500819797.1589968895.

⁷ Government of the Netherlands, "Nederland verlengt de grenssluiting voor mensen van buiten Europa", 15 May 2020, <https://www.rijksoverheid.nl/actueel/nieuws/2020/05/15/nederland-verlengt-de-grenssluiting-voor-mensen-van-buiten-europa>.

high rate of COVID-19 infection⁸ must present a health screening form⁹ and only passengers who have completed the form will be allowed to board;

Everyone arriving in the host State from a high-risk area has to self-quarantine for 14 days;¹⁰ all travellers arriving in the host State are informed of the measures and rules that apply here; and, at this stage, it is not possible to apply for a short stay visa in general; however, “a person with an essential function or need” could apply for a visa with a proof.¹¹

2. Until such time a global vaccine can be developed and/or reliable information/data made available on immunities, it is anticipated that a prolonged period of numerous months will pass before the measures against COVID-19 put in place by the host State could be lifted.
3. Based on current indications, including the 11 May Advisory which already announces the steps for further relaxation of the measures in place,¹² The Hague can expect a gradual relaxation of restrictions to occur, provided the virus remains under control.

⁸ The list of high-risk areas is kept up-to-date by the European Union Aviation Safety Authority (EASA) on the basis of the latest information, see <https://www.easa.europa.eu/SD-2020-01/Airports>.

⁹ Travellers departing from the high-risk areas will receive a form from the airline they are travelling with. The questionnaire has been drawn up by the GGD and RIVM and must be completed before boarding. Travellers should keep the form with them during the trip. If one of the questions on the form is answered with "yes", the traveller will not be allowed on board by the airline.

¹⁰ Government of the Netherlands, “Information package regarding COVID-19 measures for passengers flying to the Netherlands from a high risk location”, see <https://www.rivm.nl/coronavirus-covid-19/informatie-voor-professionals/information-for-passengers>.

¹¹ Government of the Netherlands, “Q&A's Short-stay Schengen visa”, <https://www.netherlandsandyou.nl/travel-and-residence/visas-for-the-netherlands/qas-short-stay-schengen-visa>.

¹² Government of the Netherlands, “COVID-19: the Dutch steps after 11 May in simple language”, <https://www.government.nl/documents/publications/2020/05/06/covid-19-dutch-steps-after-11-may-in-simple-language>.

(ii) *In Mali*

4. Countries around the world, including situation countries are in differing phases of the Pandemic and based on their own circumstances have adopted differing measures to combat the virus.
5. The general acceptance is that, in terms of the phase of the spread of COVID-19, the Pandemic reached the situation countries in Africa later than it reached Europe. Given the limited capacity of their public health infrastructures, these countries remain particularly vulnerable to the Pandemic. Accordingly, the impact of such Pandemic could be potentially significantly higher than that being faced in the host State.
6. At the time of writing the Malian Government has put in place the following measures to address the Pandemic at the national level. These measures will have an impact on the Court's operations: suspension until further notice of all commercial flights from the COVID-19 affected countries into Mali with no clear indication as to when this restriction will be lifted; the suspension until further notice of all public gatherings including workshops, symposia, seminars, popular meetings; and the prohibition until further notice, of social, sporting, cultural and political gatherings of more than fifty people.
7. While difficult to make any accurate projections, it is anticipated that the current restrictions above-mentioned may remain in place in Mali for a number of months, with a gradual lifting of constraints over time.

2. The feasibility of field missions over the next four months

8. The Registry provides in Annex I the Court's feasibility assessment, taking into account, *inter alia*, the current capacity at the time of Pandemic of all actors supporting the Court's mission in the field.¹³

¹³ Annex I.

9. In Annex II to the present observations,¹⁴ the Registry further provides the Chamber with a detailed report of the Country Analysis Unit of the Registry, dated 1 May 2020, on the impact of COVID-19 on Mali in terms of its politics, socio-economics and security situation.

3. The organisation of a status conference in June 2020

10. As mentioned above, the present observations are updated until 19 May 2020 inclusive and may be subject to change, as appropriate, in light of any development as regards the Pandemic and/or operational and logistical matters. In this respect, the Registry notes that the Court will reopen on 1 June 2020 with a maximum number of persons (including security officers) being allowed to enter the building, subject to relevant measures in place by the Occupational Health Unit ("OHU"). This opening will prioritise any courtroom proceeding and may allow for a more flexible use of the courtroom(s) and other Court's space, subject to the said measures. Recommendations and approaches taken by the host State and neighbouring countries in terms of maintaining or restarting judicial activities are being observed, as are the recommendations of the Court's Crisis Management Team and the host State as regards COVID-19 measures, and steps taken by other international organisations located in The Hague and elsewhere.
11. Naturally, the Court, in taking measures to mitigate risk posed by the Pandemic, cannot eliminate all risk(s). Those present at the Court for the purpose of any hearing have to comply with the measures the Court has adopted in response to the situation at the relevant time.

¹⁴ Annex II.

12. Further to paragraph 7(c) of the Order,¹⁵ the Registry has liaised with the parties and participants. It has informed them, *inter alia*, that it has been in discussions, since beginning of April 2020, with the relevant sections and units as regards any hearing in the *Gbagbo and Blé Goudé* case,¹⁶ including entirely remote hearings, semi-remote hearings,¹⁷ hearings at the Court and any combination thereof. These options are available for a status conference in June 2020 in the *Al Hassan* case, subject to the situation at the relevant time.¹⁸

13. Should any part of a status conference in June 2020 be conducted remotely, and should the software anticipated to be used for the hearing be Interactio,¹⁹ - a multi-channel video conferencing software similar to Webex - the following would apply. It is a web-based application, for which those participating in the hearing will receive a link. The software is new to the Court and is currently undergoing stringent tests; the first such test having successfully been conducted on 8 May 2020 and technical tests are ongoing. It is used extensively by other international organisations, including the European Parliament. As discussed by the Registry when it liaised with the parties and participants, Interactio allows for English, French and Arabic interpretation. The Registry will also reach out to those participating in a status conference in June 2020 to provide an explanation of the software and training.²⁰ Interactio

¹⁵ According to which the Registry, parties and participants are invited to make joint submissions, to the extent possible, on “concrete proposals for the holding of a status conference in June, with the presence of the accused, physically or through the use of video technology”.

¹⁶ Appeals Chamber, *Prosecutor v. Laurent Gbagbo and Charles Blé Goudé*, “Decision rescheduling, and directions on, the hearing before the Appeals Chamber”, ICC-02/11-01/15-1338, 30 April 2020.

¹⁷ Through the use of the courtroom(s) and/or video conference room(s) at the Court and/or respective offices at the Court.

¹⁸ See above, para. 10.

¹⁹ See www.interactio.io.

²⁰ Since the Registry had liaised with the parties and participants, the Defence, on 16 May 2020, indicated to the Registry that it wanted further explanation about Interactio, on the basis of information publicly available about the software. At the time of writing, the Registry has not been able to fulfil this particular request. As discussed during the meetings with the parties and participants, the Registry will contact them to provide further information and training. The Defence has noted that should issues emerge during the said training, the Defence reserves its rights to subsequently raise the matter with the Chamber.

does not provide for real-time transcripts. The Registry can upload the transcripts after the hearing to Transcend, to enable annotations.

14. In this regard, the Defence has indicated that in order for it to effectively participate in any remote proceedings, it is essential that it can view, simultaneously, both the real-time transcript in English, and the Judges.

15. Turning to the specified maximum number of persons who may be allowed to participate from the courtroom, the total is 15, in different rows,²¹ including one court officer. This number could be divided as follows: two to three members per party and participant, Mr Al Hassan, if he is physically present in the courtroom, two security officers accompanying Mr Al Hassan, one court officer and Chambers. If additional space is needed in light, *inter alia*, of social distancing requirements, a specified number of persons may be allowed to participate from their respective offices within the Court's premises and the video conferencing room(s), subject to recommendations and measures by OHU.

16. The Registry has informed the parties and participants, during the aforementioned discussions, that OHU recommends the following: (i) screening all persons who may participate at the Court, (ii) the sessions should be limited to three in total per day, not surpassing one hour each,²² (iii) the breaks between sessions should be extended to forty five minutes²³ and (iv)

²¹ The Registry will extend the bench for the Judges, as required, for the purpose of social distancing.

²² The three hours (i.e., three sessions of one hour each), has been adopted to reduce the number of hours during which the Judges, parties, participants, Chamber staff and support staff (court reporters, technicians etc.), or any combination thereof (i.e., a number of persons), are in the same room.

²³ OHU has indicated that breaks between sessions are required to clean the work surfaces of court reporters, audio-visual personnel, and other surfaces as necessary, and should be extended as a result, to 45 minutes.

those participating at the Court's hearing do not spend more than four and a half hours a day in the building.²⁴

17. The Registry has further informed the parties and participants that OHU will develop a specific protocol for the purpose of a status conference in June 2020. For information only, the Registry attaches the "Occupational Health and Safety Protocol during COVID-19 Pandemic and Court Hearings on 27-29 May 2020" currently discussed for the upcoming hearing in the *Gbagbo and Blé Goudé* case.²⁵ As stated above, a similar protocol will be developed for the specific dates of a status conference in June 2020, and provided to the Chamber, parties and participants at the earliest.²⁶

18. The Registry has similarly informed the parties and participants that, in the event that any part of a status conference in June 2020 takes place remotely (i.e., outside of one courtroom), the Registry recommends that the hearing sessions are reduced to three one hour sessions for the benefit of the interpreters,²⁷ and that the breaks between sessions is extended accordingly, to forty five minutes.

19. As to Mr Al Hassan's presence at a status conference in June 2020, the Registry recommends, in light of the Pandemic, that he participates *via* video-link from the Court's Detention Centre ("DC").²⁸ The Defence has stated to the Registry that it is not opposed, *per se*, to a virtual, or 'mixed' format for a status conference in June, provided that certain key rights can be safeguarded. The

²⁴ Excluding arrival time in the building on the morning of the hearing and preparation to leave the building immediately after the hearing.

²⁵ Annex III.

²⁶ The Registry provided the "Occupational Health and Safety Protocol during COVID-19 Pandemic and Court Hearings on 27-29 May 2020" for the *Gbagbo and Blé Goudé* case to the parties and participants in the present case for information purposes, on 17 May 2020.

²⁷ The Language and Support Section has indicated that remote interpretation is more resource intensive than that done in regular court proceedings.

²⁸ For example, once inside a prison facility, infections are difficult to contain. Also, the Detention Centre shares custody officers with the United Nations Detention Unit, which houses some elderly prisoners (the elderly being a risk group for COVID-19).

Defence also attaches the caveat that there is a clear distinction as concerns what might be permissible for a status conference, as compared to the requirements for trial hearings, or hearings on issues of substance, that can impact on the outcome of the proceedings. The Defence has stressed that it opposes any visual transmission of Mr Al Hassan that would show him in a cell or detention environment. Unless otherwise decided by the Chamber, the Registry will ensure that no picture of Mr Al Hassan showing him in a detention environment will be transmitted.

20. The Registry has also communicated to the parties and participants that any (privileged) communication between the Defence and Mr Al Hassan can take place by telephone. The Defence has indicated, during the said discussions, that it would also like to communicate with Mr Al Hassan electronically (i.e., chat); that is, *via* a computer at the DC linked to a courtroom computer. The Defence has since communicated to the Registry that Mr Al Hassan's right to participate in the proceedings means that he must have the right to communicate with his Defence while the hearing is ongoing: if Mr Al Hassan has to wait for a break or an adjournment, it might be too late for him to communicate a concern on a particular point. Further, in the view of the Defence, in many cases, it is not only the content of the communication that is privileged, but also the fact that the Defence is communicating with the client on a particular topic. For this reason, it is essential, the Defence has stated, that it can communicate with Mr Al Hassan in a discreet manner.²⁹

21. As to the Defence communicating with Mr Al Hassan *via* a computer (i.e., chat) during a status conference in June per above, the Registry notes that, at present, this is not technically possible. In the Registry's view, communication by telephone and/or by video-link from the DC with privileged exchange with

²⁹ In the view of the Defence, from a legal perspective, the very fact that the Defence would need to obtain the permission of the Chamber to have an adjournment, is incompatible with the absolute nature of the right to privileged communications with Mr. Al Hassan.

counsel, which is also possible, should suffice. Should the Chamber consider that the Defence can communicate electronically as above (i.e., chat), the Registry will explore the feasibility of this type of communication. In the event that the Defence communicates with Mr Al Hassan by telephone, the Chamber may wish to consider whether such communication may take place during the session, or during the break.

22. With regard to the Defence meeting Mr Al Hassan in person, the Defence has communicated to the Registry that this is essential, in order to obtain instructions on essential points concerning the conduct of the trial and witnesses, and that it must be in a position to conduct physical visits or face-to-face communications with him several weeks in advance of a status conference. The Registry notes that consultations are being held about in-person visits by the Defence at the DC, as any such visit is currently suspended due to the Pandemic and, if re-instated, must also abide by the host State measures adopted as a result of COVID-19.³⁰ In the meantime, the Registry will contact the Defence as regards its request for video conferencing between the Defence and Mr Al Hassan.

23. Finally, with regard to any period during which a status conference takes place in June 2020, the Registry recommends the third week of June 2020 or thereafter.³¹ To this end, and for any other information, the Registry remains entirely at the disposal of the Chamber, including any consultation process, should the Chamber so wish (e.g. information on protocol for the technical aspects of the proceedings from a technical perspective, in the event that any part of a status conference takes part remotely).

³⁰ Government of Netherlands, Custodial Institutions Agency (DJI) takes protective measures to prevent spread of coronavirus, 13 March 2020, available at <https://www.government.nl/topics/coronavirus-covid-19/news/2020/03/13/custodial-institutions-agency-dji-takes-protective-measures-to-prevent-spread-of-coronavirus> and https://icpa.org/wp-content/uploads/2020/03/Netherlands_Custodial_Institutions_Agency.pdf.

³¹ See Annex III. The Registry recommends that a status conference in June 2020 take place at least 21 days after the Chamber's decision scheduling the status conference, to help give effect to the occupational health and safety protocol during COVID-19 which will be adopted in the present case.

24. In addition to information above that was discussed with the parties and the participants, the Registry adds that sufficient notice of the exact date of the status conference in June would allow for timely required procurement exercises. This is to provide all participants to the hearing with adequate equipment needed at the Court's premises (e.g. masks, potential need for dividing screens, adequate markings and posters to indicate social distancing).

4. Other Registry's activities impacted by the Pandemic

(i) Process for victims to submit applications for participation

25. As per paragraph 8 of the Order, the Registry's Victims Participation and Reparations Section has consulted with the Common Legal Representatives of the Victims and provide further information and a joint request in Annex IV.³²

(ii) Publicity of proceedings

26. The Public Information and Outreach Section and the Country Office in Mali will ensure the publicity of the opening of the trial in the present case as per their normal mandate. It is, however, quite likely that very limited or no access to the Public Gallery and Media Centre at the seat of Court is granted. In addition, it can be anticipated that the face-to-face outreach activities in Mali will be severely restricted.

27. To compensate the lack of physical access, the Registry will rely on technological channels and will benefit from the existing extensive networks of media (both internationally and at national level) and civil society to ensure the timely distribution of accurate information on the trial as well as to respond to questions and concerns of the public. The hearings will be streamed both in English and French through the ICC website, with a 30 minutes delay. The production and distribution of audio-visual programs and

³² Annex IV.

summaries of the proceedings will be intensified, as well as the use of social media for dissemination of information.

28. Furthermore, a “Virtual visit” to the ICC will be organized for the representatives of the media and civil society who will have the opportunity to virtually meet with parties and participants as well as with the ICC spokesperson. This will allow the media to ask questions and to report in local languages and inform the civil society, key representatives of Malian NGOs and community leaders who exercise the greatest influence among the local populations.

(iii) *Interpretation*

English, French and Arabic for the accused person

29. Due to the Pandemic, the plan is to have a hub at the premises of the Court from where staff interpreters and freelancers, if medically cleared by OHU, will provide remote simultaneous interpretation. This means that three interpreters per language will work from the booths in one of the ICC courtrooms, each one in one booth, in conformity with the social distancing protocol. Out of the three interpreters in each language, those who cannot be physically present at the Court for medical reasons or travel restrictions will have to interpret from home using a dedicated platform.³³

30. Depending on the various developments in relation to the Pandemic in June, if the Arabic speaking interpreters residing outside the Netherlands are not able to travel to The Hague, they will have to provide remote simultaneous interpretation from their home after being trained like the “in-house” English/French/Arabic Court’s staff interpreters by the Language Services Section (“LSS”). Should these freelance interpreters providing Arabic

³³ As the case may be, the “in-house” English/French/Arabic interpreters available at the Court may have to provide remote simultaneous interpretation from their home in The Netherlands if they are not medically cleared to enter the Court’s premises.

interpretation for the accused have to come to the Court, one will have to consider possible quarantine imposed by relevant authorities on said interpreters.

Situation languages by field interpreters (Arabic, Bambara, Tamasheq, Songhay)

31. The Registry understands that, at present, no witnesses speaking a situation-related language will be called in the first six months of the trial and until December 2020. Based on this information, court interpretation in Tamasheq or Songhay is not envisaged at this time. Should this change if the circumstances allow it, ample notice will need to be provided. Indeed, the Registry recalls its previous submissions with regard to the necessary recruitment and training of these (usually field-based) interpreters as well as the associated time-line for accommodating interpretation in situation-related languages.³⁴ Because of the Pandemic, additional specific elements will need to be taken into account as follows.

32. Should Bambara speaking interpreters have to be recruited for 2020, depending on the developments of the Pandemic in Mali, those interpreters will have to provide remote simultaneous interpretation by video conference since they might not be able to travel.

33. For interpretation in consecutive mode for Arabic, Tamasheq or Songhay, in normal circumstances,³⁵ this could in principle be done at the Court provided appropriate health and safety measures are in place. However, travel restrictions may limit or simply block the option of bringing in field interpreters to the Court. If so, they may only be able to provide services

³⁴ Registry, “Registry Submissions in View of the 12 December 2019 Status Conference”, ICC-01/12-01/18-517, 6 December 2019, paras. 8-15. Scheduling of witnesses needs to be done with a minimum of 6 to 12 week notice to LSS.

³⁵ This concerns the communication with witnesses before, during or after testimony (i.e. witness familiarisation, psycho-social-, vulnerability- and protection assessments and sight translation, and interpretation to facilitate communication in the context of the Detention Centre’s requirements).

remotely *via* video-link from the Country Office, with adequate technical support. These field interpreters will need to be trained at the Country Office for two weeks in remote consecutive interpretation. Should travel restrictions to Bamako remain in place, the training itself by LSS will also have to be conducted remotely.

5. The feasibility of hearing *viva voce* testimonies *via* video-link

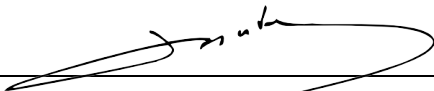
34. For the purpose of these submissions, the Victims and Witnesses Unit (“VWU”) had a virtual meeting with the Office of the Prosecutor (“Prosecution”) on 5 May 2020 to discuss their intention and planning with regard to the appearance of witnesses as of 25 August 2020.

35. Based on the discussions, a scenario - further explained confidentially in annex - ,³⁶ was envisaged in order to minimise the delays, arising from the COVID-19 limitations, with a view to start the proceedings at the date initially scheduled. The plan was envisaged within the scope of the information that is currently available and of what can reasonably be expected. However, it was acknowledged that it is almost impossible, for any entity, to predict with a realistic degree of reliability, what the situation will be, and how it will evolve between now and the start of the presentation of the Prosecution evidence. The Prosecution and the Registry have taken into account the fact that affected countries are and will be at different stages of the Pandemic. Currently, travels that are limited to essential moves within Europe are still in place but one can reasonably expect that, in the event the situation continues to improve, it would become easier to travel within Europe even though some specific measures such as medical certificate may be required by certain airlines. Depending on the location of the witnesses, scenarios have been further elaborated in confidential Annex V by the VWU and, as appropriate in consultation with the Prosecution.

³⁶ Annex V.

IV. Conclusion

36. The impact of COVID-19 on the preparation of trial in the present case is foreseeable and can be tackled for the upcoming month of June, in particular as far as the organisation of a status conference in June 2020 is concerned. Depending on the developments of the Pandemic, the preparation of said status conference entails, *inter alia*, sufficient notice to the OHU to medically clear participants to this hearing, who will need to come to the Court's premises. Any such impact beyond June 2020 is more difficult to anticipate. The Registry recommends reassessing the Pandemic situation and holding consultations with the Chamber on a regular basis, and in particular before the opening statements scheduled to start on 14 July 2020 and thereafter, before the start of the prosecution witnesses' testimonies on 25 August 2020.



Marc Dubuisson
Director Division of Judicial Services
on behalf of Peter Lewis, Registrar

Dated this 20 May 2020

At The Hague, The Netherlands