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TRIAL CHAMBER I

Before: Judge Joanna Korner, Presiding Judge
Judge Reine Alapini-Gansou
Judge Althea Violet Alexis-Windsor

SITUATION IN DARFUR, SUDAN

**IN THE CASE OF
THE PROSECUTOR *v.*
ALI MUHAMMAD ALI ABD-AL-RAHMAN (“ALI KUSHAYB”)**

Public

Public redacted version of “Prosecution’s submissions pursuant to the ‘Order scheduling first status conference’”, 1 September 2021

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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 I's ("Chamber") order of 16 August 2021 ("Scheduling Order").¹

II. CONFIDENTIALITY

2. This document is filed confidential, *ex parte*, only available to the Prosecution, pursuant to regulation 23*bis*(1) of the Regulations of the Court, as it contains security-related and other highly sensitive information relating to the Prosecution's witnesses and its ongoing focused investigations. Confidential and public redacted versions of this document will be filed simultaneously.

III. SUBMISSIONS

A. Commencement date of the trial

3. The Prosecution requests that trial be set for Monday, 13 June 2022. The issues listed in the Scheduling Order and discussed below are among the steps that must be completed prior to the commencement of the trial. The Prosecution also notes that a period of approximately three months is normally afforded to the Defence to conclude its trial preparation following the full disclosure of evidence on which the Prosecution intends to rely at trial.²

4. Taking these issues into consideration, and subject to the Chamber's determination of the period necessary for the preparation of the Defence, the Prosecution submits that 13 June 2022 is a reasonable date for the commencement of the trial. Despite the unprecedented challenges faced by the Prosecution, especially in terms of cooperation with the former Government of Sudan ("GoS") and the ongoing challenges associated with the COVID-19 pandemic, the proposed

¹ ICC-02/05-01/20-451.

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

timeframe is consistent with the practice of the Court and would also result in this case being one of the fastest cases to go to trial.³

5. The proposed date for the start of trial will allow the Prosecution to efficiently discharge its disclosure and other obligations, as detailed below, while allowing the Defence sufficient time to prepare for trial, and will consequently prevent problems arising during the trial which could cause delay.

6. In particular, by mid-March 2022, the Prosecution intends to *inter alia*: (i) further assess materials in its possession (in light of the progress of the case, the charges as confirmed and the Prosecution's further investigations), including any necessary protective measures; (ii) complete the process of transcription of audio and video-recorded evidence, including interviews conducted under article 55(2); (iii) provide translation of evidence where required; (iv) complete its investigations; (v) complete its disclosure obligations including the re-disclosure of lesser redacted versions of items already disclosed; (vi) submit requests for admission of prior recorded testimony under rule 68; (vii) submit bar table motions seeking the admission of non-testimonial evidence; (viii) provide a trial brief and summaries of the anticipated testimony of its witnesses; (ix) conduct discussions with the Defence regarding agreed facts under rule 69, and possible joint instruction of experts; and (x) obtain expert reports further to joint or separate instructions.

7. The Prosecution draws the Chamber's attention to potential further litigation before the Pre-Trial Chamber that may have a bearing on the preparation for, and

³ The time lapse between the decision on the confirmation of charges and the proposed start date of the trial is approximately 11 months in this case. A review of the same time period in other cases shows the following timeframes: *Lubanga* (approx. 24 months), *Katanga & Ngudjolo* (approx. 14 months), *Bemba* (approx. 17 months), *Ruto & Sang* (approx. 20 months), *Ruto & Sang* (approx. 20 months), *Gbagbo & Blé Goudé* (approx. 19 months for Gbagbo and 13 months for Blé Goudé), *Ntaganda* (approx. 15 months), *Ongwen* (approx. 8 months), *Al Mahdi* (who was subject to a plea agreement) (5 months), *Al Hassan* (approx. 10 months), *Yekatom & Ngaissona* (approx. 14 months). Viewed from the perspective of the overall time lapse between the transfer of the suspect to the custody of the Court and the commencement of the trial, the proposed timeframe would render the overall time period between Mr Abd-Al-Rahman's transfer to the custody of the Court and the commencement of the trial approximately 24 months, which is also consistent with the same time period in other cases. See e.g. *Lubanga* (approx. 34 months), *Katanga & Ngudjolo* (approx. 25 months for Katanga and 21 months for Ngudjolo), *Bemba* (approx. 27 months), *Ruto & Sang* (approx. 29 months from initial appearance), *Gbagbo & Blé Goudé* (approx. 50 months for Gbagbo and 22 months for Blé Goudé), *Ntaganda* (approx. 29 months), *Ongwen* (approx. 22 months), *Al Mahdi* (who was subject to a plea agreement) (11 months), *Al Hassan* (approx. 27 months), *Yekatom & Ngaissona* (approx. 27 months for Yekatom and 25 months for Ngaissona).

commencement of, the trial. In this respect, the Prosecution is assessing whether certain aspects of the decision on the confirmation of charges⁴ may require a motion to the Pre-Trial Chamber requesting remedial action.

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 124 witnesses at trial.⁵ These include 22 insider witnesses, 79 crime-base witnesses and 23 witnesses who are relevant to explain the background to the conflict and the contextual elements of the crimes charged. As discussed below, the Prosecution intends to call up to 54 of these witnesses to give live testimony in full at trial and to introduce evidence of the remainder under rule 68.⁶

9. The Prosecution estimates that its direct examination of these witnesses will take approximately 400 hours. This estimation is based on the number and type of witnesses in this case and their proposed mode of testimony, and is informed by a review of how the Court has calculated the average time required for witnesses to give live testimony at trial in other similar cases.⁷

2) *Use of expert witnesses*

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

⁴ ICC-02/05-01/20-433.

⁵ Of these witnesses, 110 witnesses were relied on for the confirmation of charges.

⁶ See below, para. 14.

⁷ For example, in *Ongwen*, the Trial Chamber allowed 400 hours to receive evidence from 115 Prosecution witnesses of which 65 were to give live testimony at trial (ICC-02/04-01/15-497, paras. 11-12). In *Katanga & Ngudjolo*, the Trial Chamber allowed 120 hours to receive evidence from 26 Prosecution witnesses who would give live testimony at trial (ICC-01/0401/07-1665, para. 8). In *Yekatom & Ngaïssona*, the Trial Chamber allowed 400 hours to receive evidence from 152 Prosecution witnesses of which 109 were to give live testimony at trial (ICC-01/14-01/18-631, paras. 21-22).

- a. Historical, political, social, economic and cultural background to the conflict in Darfur, in particular from 2003 to 2004;
- b. Sexual and gender-based violence and trauma; and
- c. Military.

11. 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 said experts in the interests of justice and judicial economy.

3) *Testimony given by audio or video link*

12. To date, the Prosecution intends to call its witnesses to testify in person at the seat of the Court. However, it does not rule out the possibility that some witnesses may testify via audio/video link should their circumstances so require. Should this situation arise, the Prosecution will inform the Chamber accordingly.

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

13. The Prosecution estimates that it will rely upon approximately 700 items of documentary and other non-testimonial evidence. Of these, 339 items were relied on for the purposes of the confirmation of charges.

5) *Use of Rule 68 of the Rules*

14. The Prosecution currently intends to call approximately 54 witnesses to give live testimony at trial⁸ and to seek the introduction of previously recorded evidence under rule 68 for approximately 70 witnesses. Of those 70 witnesses, the Prosecution will seek to introduce the evidence of approximately 36 witnesses under rule 68(2)(b), 4 witnesses under rule 68(2)(c) and 30 witnesses under rule 68(3). For the 30

⁸ This number includes only the witnesses for whom the Prosecution intends to conduct a complete direct examination. Witnesses whose evidence maybe introduced under rule 68(3) may also be subject to a focused supplementary direct examination by the Prosecution.

witnesses under rule 68(3), the Prosecution intends to conduct a limited supplementary examination-in-chief.

C. Agreed facts under Rule 69 of the Rules

15. Prior to the confirmation of charges, the Prosecution and the Defence agreed on 26 facts:

- a. Seventeen facts related to contextual elements of war crimes;⁹
- b. Eight facts related to contextual elements of crimes against humanity;¹⁰ and
- c. One administrative map of West Darfur.¹¹

16. With a view to advancing further discussions on potential areas for agreement with the Defence in preparation for trial, the Prosecution invited the Defence to re-open the discussion on this issue.¹² The Defence confirmed its willingness to explore additional facts for agreement, in particular, regarding Mr Abd-Al-Rahman's individual background and profile, and informed the Prosecution that it will propose some facts for agreement shortly.¹³

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

17. The Prosecution will use the working languages of the Court, but English would be the language predominantly used by Prosecution counsel during the proceedings.

18. As noted above, the Prosecution currently intends to rely on the evidence of 124 witnesses at trial. Of those, 4 witnesses are deceased, 71 witnesses speak Arabic, 35 witnesses speak Fur, 11 witnesses speak English, 2 witnesses speak Masalit (but

⁹ ICC-02/05-01/20-291-AnxA.

¹⁰ ICC-02/05-01/20-343-AnxA.

¹¹ ICC-02/05-01/20-343-AnxB.

¹² Email sent by the Prosecution to the Defence on 19 August 2021 at 15:26.

¹³ Emails sent by the Defence on 19 August 2021 at 17:05, 24 August 2021 at 12:42 and 31 August 2021 at 11:21.

may be able to testify in Arabic), and 1 witness speaks Zaghawa (but may be able to testify in Arabic).

19. 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 in 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*

20. The Prosecution's investigations in this case have been faced with significant and unprecedented challenges including the impediments presented by the COVID-19 pandemic and the lack of access to the territory of Sudan for an extended period of time—effectively until after the signing of the Memorandum of Understanding between the Prosecution and the GoS in February 2021. Following the surrender of Mr Abd-Al-Rahman, the investigative progress continued to be severely hindered by travel restrictions imposed by the pandemic, including restrictions on the deployment of investigators, interpreters and the ability of witnesses to travel to locations of interview. Countries in the region of investigation were in near lockdown due to increased COVID-19 cases. Security and sufficient medical facilities also remain a challenge when conducting investigations in the region.

21. In October 2020, a peace agreement between the GoS and certain rebel movements was signed which allowed for cooperation with the ICC. Following this, a Memorandum of Understanding was concluded with the GoS in February 2021, which established a framework for cooperation between the Prosecution and the GoS. Despite strenuous efforts by the Prosecution, it was not until March 2021 that the Prosecution was able to deploy its first investigative mission in the territory of Sudan, shortly before the deadline for the filing of the document containing the

charges. To date, the Prosecution has been unable to review the relevant archives held in Sudan.¹⁴

22. Under these circumstances, the Prosecution continues to conduct further focused investigations that are necessary in particular to: (1) collect additional evidence that was not previously available due to cooperation challenges; (2) complete pending investigative steps that the Prosecution had started but could not conclude before the confirmation hearing; and (3) re-interview certain witnesses, in particular, to clarify certain issues in their previous statements. The objective of these investigations is to ensure that the Court is not deprived of significant, relevant and probative evidence necessary to establish the truth.¹⁵

23. The Prosecution estimates that these investigative steps could take several months but in any event, would be concluded sufficiently in advance of the proposed date for the commencement of the trial, without prejudice to 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*

24. To date, the Prosecution is in possession of 36,750 items (totalling 185,831 pages). Of these, 36,672 items have been reviewed and 13,392 items disclosed, of which 6,268 items are witness statements/transcripts or related material. The disclosed evidence includes 43 items disclosed as potentially exonerating pursuant to article 67(2) and 9,509 items disclosed pursuant to rule 77.¹⁶ The Prosecution will continue its ongoing review for article 67(2) and rule 77 material, and will ensure its timely disclosure on a rolling basis.

¹⁴ With the exception of specific judicial files pertaining to Mr Abd-Al-Rahman which the GoS provided to the Prosecution.

¹⁵ The Prosecution recalls that the Statute does not prohibit 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 access to the territory in which the crimes were allegedly committed was denied for an extended period of time, effectively until shortly before the submission of the document containing the charges.

¹⁶ These are items for which the overarching value is assessed as potentially exonerating. Other items disclosed as incriminating evidence may also contain potentially exonerating information or information material to the preparation of the Defence, which the Prosecution identifies to the Defence to the best of its ability.

25. Currently, there are 78 newly collected items (totalling 500 pages) which still need to be reviewed for disclosure. This includes witness statements, screening notes, investigation reports and translations.

26. For the purpose of trial preparation, the Prosecution is also re-assessing the previously reviewed but undisclosed items in its evidence collection using updated keywords 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 progresses are disclosed in a timely manner, in accordance with ongoing disclosure obligations.

27. Further, the Prosecution has disclosed 5,348 items (46,674 pages) to the Defence with redactions and intends to re-review those items with a view to lifting redactions that are no longer required for the purposes of trial. As the Chamber is aware, disclosure is a detailed and time-consuming process, involving multiple layers of review and technical processing. With the team's current resources, this redaction lifting process alone would require three to four months to complete based on an average of 10,000 to 15,000 pages per month.

3) *Transcription and translation issues*

28. In its further investigations, the Prosecution intends to conduct a number of article 55(2) interviews, which must be transcribed. Transcription of the audio/video recordings of these interviews is time-intensive. The Prosecution is also currently revising 28 transcripts previously disclosed in draft form.

29. Moreover, the Prosecution is relying on approximately 72 non-witness related audio/video files for trial, for which transcriptions will be provided. Transcription of these items is also time-consuming and may vary depending on the quality of the files and the number of languages spoken. Of the total 72 audio/video files, there are currently 30 files (approximately 25 hours) pending transcription. The Prosecution's Language Services Unit ("LSU") estimates that transcription of these files will take at

least two months prior to translation. LSU estimates that translation will require an additional 20 days.

30. With respect to translations, there are currently 58 Arabic language items (1,672 pages) that still require translation into a working language of the Court and 43 Arabic language documents for which a translation is in progress but not yet complete. The translation of these items is estimated to take approximately five months to complete. However, the total number of Arabic language documents requiring translation into a working language of the Court is likely to change as the Prosecution continues its re-assessment of existing evidence and identification of new evidence.

31. At the pre-confirmation stage,¹⁷ the Prosecution disclosed the Arabic language translations of witness statements primarily in draft form. The LSU is revising these draft witness statements. The revision process requires the significant use of time and resources. Currently, there are 85 draft Arabic translations that require revision, including 68 witness statements and 17 transcripts. On the basis of existing resources and workload, LSU estimates that the revision process will take approximately 159 days to complete.¹⁸ In addition, 13 newly obtained witness statements are pending translation into Arabic, which will require an estimated 52 days for translation and 18 days for review and revision.

4) *Protective measures of witnesses*

32. The Prosecution is conducting individual risk assessments for newly interviewed witnesses on a rolling basis, and is disclosing the identities of these witnesses as soon as the necessary protection measures are in place. 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 provisional trial witness list at least three months in advance of its proposed commencement date for trial.

¹⁷ ICC-02/05-01/20-103-Red, para. 30; ICC-02/05-01/20-238, para. 45.

¹⁸ To expedite this process, the Prosecution will explore with the Defence whether it is prepared to proceed to trial with any statements in a draft form.

33. Twenty-three witnesses on the Prosecution's provisional trial witness list have already been admitted to the Court's witness protection programme,¹⁹ and two witnesses are currently in interim protection.²⁰ More recently, the Prosecution has referred three additional witnesses to the Registry's Victims and Witnesses Section ("VWS") for protection advice, and these decisions are pending.²¹ Given that the Prosecution's investigation is ongoing, additional witnesses may be referred in the future, and the Prosecution will keep the Chamber apprised of this matter, as necessary.

34. 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 of the Rules. These protective measures are likely to be necessary due to the current security situations in Sudan and Chad, where many Prosecution witnesses and/or their family members reside. In addition, several Prosecution witnesses state that they were victims or direct witnesses of sexual violence or violence against children. At present, the Prosecution does not intend to call any witnesses who are currently under 18 years of age.

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

35. The identities of a total of 17 witnesses are currently undisclosed.²² Of these, the statements and related materials of 14 witnesses were disclosed with redactions applied to their identifying information.²³ Two witnesses recently interviewed by the Prosecution have not yet been cleared for the disclosure of their identities.²⁴ As

¹⁹ P-0007, P-0010, P-0011, P-0012, P-0015, P-0016, P-0017, P-0028, P-0029, P-0039, P-0040, P-0041, P-0044, P-0059, P-0112, P-0129, P-0140, P-0290, P-0547, P-0769, P-0843, P-0905 and P-0919.

²⁰ [REDACTED].

²¹ [REDACTED].

²² P-0008, P-0020, P-0037, P-0085, P-0103, P-0105, P-0109, P-0117, P-0119, P-0188, P-0581, P-0643, P-0884, P-0892, P-0924, P-0930 and P-0973. Five witnesses have recently been cleared for the disclosure of their identities and their materials are currently being prepared for disclosure (where applicable, in lesser redacted form), which will occur in September 2021 (P-0032, P-0046, P-0053, P-0123 and P-0945). These witnesses are on the Prosecution's provisional trial witness list with the exception of P-0037, who was cited in the first arrest warrant application against Mr Abd-Al-Rahman.

²³ P-0008, P-0020, P-0037, P-0085, P-0103, P-0105, P-0117, P-0119, P-0188, P-0581, P-0643, P-0884, P-0892 and P-0924.

²⁴ P-0930 and P-0973. The statements and related materials of these witnesses have not yet been disclosed.

detailed in the following section, the identity of one witness is not disclosed due to restrictions imposed under article 54(3)(e) of the Statute.²⁵

36. Of the 16 witnesses not affected by article 54(3)(e), 15 currently reside in Sudan.²⁶ The Prosecution is yet to locate one witness, despite extensive efforts.²⁷ Two of the witnesses residing in Sudan have been referred to the VWS for protection advice and are awaiting a decision, as noted above.²⁸ In addition, the Prosecution needs to meet with two witnesses residing in Sudan prior to the disclosure of their identities, and is currently making the necessary arrangements.²⁹

37. [REDACTED].³⁰ [REDACTED]³¹ [REDACTED].³²

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

38. As previously reported to the Pre-Trial Chamber, the Prosecution completed the review of all material subject to agreements pursuant to article 54(3)(e) of the Statute in its collection.³³ The Prosecution liaised with the relevant information providers and, where necessary, obtained lifting of the article 54(3)(e) restrictions in the majority of cases. When the information provider declined to lift restrictions on documents containing evidence disclosable pursuant to article 67(2) or rule 77, the Prosecution identified alternative sources of evidence that had already been disclosed to the Defence and informed the Pre-Trial Chamber and the Defence accordingly.³⁴ The Pre-Trial Chamber subsequently confirmed that neither the alternative sources identified by the Prosecution, nor the various redactions and

²⁵ P-0109. *See below*, para. 39.

²⁶ [REDACTED].

²⁷ P-0085. The Prosecution may apply to submit the evidence of P-0085 under rule 68(2)(c) of the Statute.

²⁸ *See above*, para. 33. [REDACTED].

²⁹ [REDACTED].

³⁰ [REDACTED].

³¹ [REDACTED].

³² [REDACTED].

³³ ICC-02/05-01/20-382-Corr, para. 12.

³⁴ ICC-02/05-01/20-293-Conf-Red; ICC-02/05-01/20-300-Conf-Red; ICC-02/05-01/20-312-Conf-Red.

other restrictions imposed by the information providers, impacted the rights of the Defence.³⁵

39. In relation to one witness, P-0109, whose identity has been withheld due to article 54(3)(e) restrictions, the Prosecution will liaise with the relevant information provider to seek to lift restrictions on disclosure relating to this witness should the Prosecution decide to retain P-0109 on its trial witness list.

40. Finally, the Prosecution will further liaise with one of the information providers in order to obtain the lifting of a redaction placed on P-0643's name in a document already disclosed to the Defence. Once this witness is cleared for disclosure, this would allow the joint re-disclosure of P-0643's statement and the aforementioned document, without redactions to the identity of this witness.

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 prepare its case for trial accordingly.

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

³⁵ ICC-02/05-01/20-354.

trial.³⁶ 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 for trial accordingly, which lessens the possibility of delays that would affect the fair and expeditious conduct of the trial.³⁷

G. Provision of trial briefs

44. The Prosecution supports the provision of trial briefs, which it considers to be useful to the Chamber, as well as the Parties 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.³⁸ 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 six hours for its opening statement.

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) *Corrections to transcripts of court hearings*

48. 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

³⁶ ICC-02/04-01/15-460, para. 8. See also; ICC-01/04-01/06-1235-Corr-Anx1, para. 29(b); ICC-01/05-01/13-1209, para. 8.

³⁷ ICC-02/04-01/15-460, para. 9.

³⁸ 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.

Prosecution considers it appropriate to provide early notice of the matter so that it can be duly considered.³⁹

49. 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.

50. 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 it effective to be required to do additional tasks that should be done by the transcribers themselves in their normal performance of duties.

51. 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.

2) *Part of the status conference which should be held ex parte*

52. Details regarding issues related to cooperation, security risks and the Prosecution's ongoing investigations may need to be discussed in an *ex parte* part of the status conference.

³⁹ The Prosecution understands that this issue is subject to discussions with the Registry in the context of other cases.

IV. CONCLUSION

53. 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.



Karim A. A. Khan QC
Prosecutor

Dated this 1st day of September 2021

At The Hague, The Netherlands