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**No. ICC-02/05-01/20
Date: 1 November 2021**

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

Decision on the review of detention

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

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Other

I. Procedural History

1. On 27 April 2007, Pre-Trial Chamber I issued a warrant of arrest for Mr Abd-Al-Rahman.¹ On 16 January 2018, Pre-Trial Chamber II, in its previous composition, issued a second warrant of arrest for Mr Abd-Al-Rahman.²
2. On 9 June 2020, Mr Abd-Al-Rahman surrendered himself and was transferred to the Detention Centre of the Court.
3. On 15 June 2020, Pre-Trial Chamber II (the ‘Pre-Trial Chamber’) held a hearing for Mr Abd-Al-Rahman’s initial appearance.³
4. On 14 August 2020, the Pre-Trial Chamber rejected Mr Abd-Al-Rahman’s request for interim release and ordered his continued detention.⁴ The Pre-Trial Chamber then reviewed Mr Abd-Al-Rahman’s detention on 11 December 2020,⁵ 12 April 2021,⁶ and 5 July 2021,⁷ each time ordering his continued detention.⁸
5. On 15 September 2021, noting the expiry on 3 November 2021 of the 120-day deadline to review detention pursuant to Rule 118(2) of the Rules of Procedure and Evidence (the ‘Rules’), Trial Chamber I (the ‘Chamber’) instructed the Office of the Prosecutor (the ‘Prosecution’), the Office of the Public Counsel for Victims (the

¹ Warrant of Arrest for Ali Kushayb, ICC-02/05-01/07-3-Corr.

² Second warrant of arrest for Ali Muhammad Ali Abd-Al-Rahman (“Ali Kushayb”), ICC-02/05-01/07-74-Secret-Exp (a public redacted version was notified on 11 June 2020 as ICC-02/05-01/07-74-Red).

³ Transcript of hearing, 15 June 2020, ICC-02/05-01/20-T-001-ENG.

⁴ Decision on the Defence Request for Interim Release, ICC-02/05-01/20-115 (hereinafter: ‘Decision on Interim Release’).

⁵ Decision on the Review of the Detention of Mr Abd-Al-Rahman pursuant to rule 118 (2) of the Rules of Procedure and Evidence’, ICC-02/05-01/20-230-Red (hereinafter: ‘Decision of 11 December 2020’).

⁶ Decision on the review of detention, ICC-02/05-01/20-338 (hereinafter: ‘Decision of 12 April 2021’).

⁷ Decision on the review of detention, ICC-02/05-01/20-430 (hereinafter: ‘Decision of 5 July 2021’).

⁸ All the Pre-Trial Chamber’s decisions ordering the continued detention of the accused were confirmed by the Appeals Chamber: Judgment on the appeal of Mr Ali Muhammad Ali Abd-Al-Rahman against the decision of Pre-Trial Chamber II of 14 August 2020 entitled ‘Decision on the Defence Request for Interim Release’, 8 October 2020, ICC-02/05-01/20-177 (OA2) (hereinafter: ‘Judgment on appeal against the Decision on Interim Release’); Judgment on the appeal of Mr Abd-Al-Rahman against Pre-Trial Chamber II’s ‘Decision on the Review of the Detention of Mr Abd-Al-Rahman pursuant to rule 118 (2) of the Rules of Procedure and Evidence’, 5 February 2021, ICC-02/05-01/20-279-Red (OA6); Judgment on the appeal of Mr Abd-Al-Rahman against Pre-Trial Chamber II’s ‘Decision on the review of detention’, 2 June 2021, ICC-02/05-01/20-415 (OA7) (hereinafter: Judgment on the appeal against the Decision of 12 April 2021’); Judgment on the appeal of Mr Abd-Al-Rahman against Pre-Trial Chamber II’s “Decision on the review of detention” of 5 July 2021, 27 August 2021, ICC-02/05-01/20-459 (OA9).

‘OPCV’), the Legal Representatives of Victims (the ‘LRVs’) and the Registry to submit observations on the review of detention by 15 October 2021. The Defence was ordered to file a response by 22 October 2021.⁹

6. On 13 October 2021, upon instruction of the Chamber,¹⁰ the Defence filed a request to hold a hearing pursuant to Rule 118(3) of the Rules.¹¹

7. On 14 and 15 October 2021, the OPCV, the LRVs and the Prosecution submitted their observations on the review of detention (respectively, the ‘Victims’ Observations’ and the ‘Prosecution’s Observations’),¹² submitting that the continued detention of the accused remains necessary.

8. On 22 October 2021, the Defence submitted its response to the observations of the Prosecution and the participants (the ‘Defence’s Observations’),¹³ arguing that four changes of circumstances militate against Mr Abd-Al-Rahman's continued detention and in favour of his conditional release.

9. On 25 October 2021, the Chamber held a hearing on detention pursuant to Rule 118(3) of the Rules.¹⁴

10. In response to a request by the Chamber,¹⁵ the Prosecution provided a copy of a video on 26 October 2021,¹⁶ to which reference was made during the course of the hearing on detention.¹⁷

⁹ Order setting out deadlines for observations on detention of the accused, 15 September 2021, ICC-02/05-01/20-471.

¹⁰ Email from the Chamber, 28 September 2021, at 13:12. *See also* Préavis de demande d’audience en vertu de la Règle 118-3, 16 September 2021, ICC-02/05-01/20-473, para. 2.

¹¹ Demande d’audience en vertu de la Règle 118-3, 13 October 2021, ICC-02/05-01/20-486.

¹² Victims’ Observations on the detention of the Accused, 14 October 2021 (notified on 15 October 2021), ICC-02/05-01/20-489. Prosecution’s observations on the review of the detention of Mr Ali Muhammad Ali Abd-Al-Rahman (“ALI KUSHAYB”), 15 October 2021, ICC-02/05-01/20-491. The Registry informed the Chamber it did not have any observations at this stage (*see* email from the Registry, 14 October 2021, at 13:24).

¹³ Réponse aux observations relatives au réexamen de la détention, 22 October 2021, ICC-02/05-01/20-495 (hereinafter : ‘Defence Observations’).

¹⁴ Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG. *See* Order scheduling a hearing on detention, 18 October 2021, ICC-02/05-01/20-493.

¹⁵ Email from the Chamber, 26 October 2021, at 13:26.

¹⁶ Email from the Prosecution, 26 October 2021, at 18:47.

¹⁷ Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG, p. 19, line 21 to p. 20, line 4.

11. On 28 October 2021, the Defence filed observations on the video disclosed by the Prosecution.¹⁸

II. Summary of findings on detention by the Pre-Trial Chamber

12. In reviewing Mr Abd-Al-Rahman's detention, the Chamber incorporates by reference the previous findings on detention made by the Pre-Trial Chamber. The Chamber summarises these findings below, given that it is conducting the review of Mr Abd-Al-Rahman's detention for the first time.

13. In the Decision rejecting the accused's request for interim release, the Pre-Trial Chamber based its decision primarily on Article 58(1)(b)(ii) of the Rome Statute (the 'Statute'). The Single Judge noted Mr Abd-Al-Rahman's previous 'alleged high ranking position', his personal connections, and 'the likelihood that he still has supporters who may have access to actual or potential witnesses'.¹⁹ The Single Judge also considered that the Court was 'not yet in a position to protect witnesses in Darfur' and noted a report of 'threats allegedly made by the suspect and his supporters to human rights activists in February 2020'.²⁰

14. In the Decision of 11 December 2020, the Pre-Trial Chamber found that the Defence had not presented any new facts warranting Mr Abd-Al-Rahman's release.²¹ It specifically highlighted that 'the Prosecutor ha[d] submitted two instances whereby threats were being made to witnesses subsequent to the disclosure of evidence to the Defence'.²² The Pre-Trial Chamber also noted 'the limited progress the Prosecutor and VWU ha[d] been able to make in relation to putting in place protective measures for witnesses'.²³ Whilst deploring that the Court was not yet in a position to sufficiently mitigate risks to all witnesses, the Pre-Trial Chamber held that 'this reality must be

¹⁸ Observations en relation à une vidéo divulguée par le Bureau du Procureur, ICC-02/05-01/20-500 (hereinafter : 'Defence Observations on a video disclosed by the Prosecution'). See also email from the Chamber on 26 October 2021 at 15:46 and email from the Prosecution on 26 October 2021 at 18:47.

¹⁹ Decision on Interim Release, ICC-02/05-01/20-115, para. 29. See also Decision of 11 December 2020, ICC-02/05-01/20-230-Red, para. 24.

²⁰ Decision on Interim Release, ICC-02/05-01/20-115, para. 28, referring to Annex 3 to the Prosecution's Response to "Requête en vertu de l'Article 60-2" (ICC-02/05-01/20-12), 13 July 2020, ICC-02/05-01/20-95-Anx3 (hereinafter: 'Annex 3'). See also Decision of 11 December 2020, ICC-02/05-01/20-230-Red, para. 24.

²¹ Decision of 11 December 2020, ICC-02/05-01/20-230-Red, para. 28.

²² Decision of 11 December 2020, ICC-02/05-01/20-230-Red, paras 29-30.

²³ Decision of 11 December 2020, ICC-02/05-01/20-230-Red, para. 31.

taken into account for the purposes of assessing the continued need to detain Mr Abd-Al-Rahman', and remanded Mr Abd-Al-Rahman in custody.²⁴

15. In the Decision of 12 April 2021, the Pre-Trial Chamber found that adequate protective measures for all witnesses had still not been implemented in Sudan.²⁵ Moreover, the Pre-Trial Chamber considered that there still existed a significant likelihood that, if Mr Abd-Al-Rahman were to be released, he could pose a threat to victims and witnesses in this case, which could not be minimised with the imposition of conditions.²⁶

16. In the Decision of 5 July 2021, the Pre-Trial Chamber concluded that there were no substantially changed circumstances which warranted the release of Mr Abd-Al-Rahman. To the contrary, the fact that the identities of many key witnesses had been revealed to Mr Abd-Al-Rahman, presented a heightened risk that he could seek to influence the ongoing investigation or the court proceedings, either directly or indirectly through his supporters.²⁷

III. Applicable Law

17. The present decision is issued having regard to Articles 58(1), 60(2) and (3) of the Statute and Rule 118(2) of the Rules.

18. A person subject to a warrant of arrest may apply for interim release pending trial. If the Pre-Trial Chamber is satisfied that the conditions set forth in Article 58(1) of the Statute are met, the person shall continue to be detained.²⁸

19. Article 58(1) of the Statute further requires the Pre-Trial Chamber to be satisfied that there are reasonable grounds to believe that the person has committed a crime within the jurisdiction of the Court²⁹ and that the arrest of the person appears necessary:

²⁴ Decision of 11 December 2020, ICC-02/05-01/20-230-Red, paras 31-32.

²⁵ Decision of 12 April 2021, ICC-02/05-01/20-338, paras 30-32, 37. *See also* Judgement on the appeal against the Decision of 12 April 2021, ICC-02/05-01/20-415 (OA7), paras 55-62.

²⁶ Decision of 12 April 2021, ICC-02/05-01/20-338, para. 37. *See also* Judgement on the appeal against the Decision of 12 April 2021, ICC-02/05-01/20-415 (OA7), paras 55-62.

²⁷ Decision of 5 July 2021, ICC-02/05-01/20-430, para. 28.

²⁸ Article 60(2) of the Statute.

²⁹ Article 58(1)(a) of the Statute.

- i. to ensure the person's appearance at trial;
- ii. to ensure that the person does not obstruct or endanger the investigation or the court proceedings; or
- iii. where applicable, to prevent the person from continuing with the commission of that crime or a related crime which is within the jurisdiction of the Court and which arises out of the same circumstances.³⁰

20. Under Article 60(3) of the Statute, a chamber may modify a previous ruling on detention, release or conditions of release if 'it is satisfied that changed circumstances so require'.³¹ The previous ruling on detention refers to the initial decision made under Article 60(2) of the Statute, as well as any potential subsequent modifications made to that decision under Article 60(3) of the Statute.³²

21. 'Changed circumstances' has been defined as a change in some or all of the facts underlying a previous decision on detention, or a new fact satisfying a chamber that a modification of its prior ruling is necessary.³³ If there has been a change in circumstances, a chamber needs to consider the impact on continued detention. If, however, a chamber finds that there are no changed circumstances, it is not required to further review the ruling on release or detention.³⁴ When addressing changed circumstances, the Prosecution does not have to re-establish the same underlying facts if these facts continue to apply.³⁵

³⁰ Article 58(1)(b) of the Statute.

³¹ Appeals Chamber, *The Prosecutor v Laurent Gbagbo*, Judgment on the appeal of Mr Laurent Koudou Gbagbo against the decision of Pre-Trial Chamber I of 13 July 2012 entitled 'Decision on the "Requête de la Défense demandant la mise en liberté provisoire du président Gbagbo"', 26 October 2012, ICC-02/11-01/11-278-Red (OA), para. 23.

³² Appeals Chamber, *The Prosecutor v Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 28 July 2010 entitled 'Decision on the review of the detention of Mr Jean-Pierre Bemba Gombo pursuant to Rule 118(2) of the Rules of Procedure and Evidence', 19 November 2010, ICC-01/05-01/08-1019 (OA4), para. 46 (hereinafter: '*Bemba Judgment on Review of Detention*').

³³ *Bemba Judgment on Review of Detention*, ICC-01/05-01/08-1019 (OA4), paras 51-52.

³⁴ Appeals Chamber, *The Prosecutor v Laurent Gbagbo*, Judgment on the appeal of Mr Laurent Gbagbo against the decision of Pre-Trial Chamber I of 11 July 2013 entitled 'Third decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute', 29 October 2013, ICC-02/11-01/11-548-Red (OA4), para. 51; Appeals Chamber, *The Prosecutor v Jean-Pierre Bemba Gombo*, Judgment on the appeal of Mr Jean-Pierre Bemba Gombo against the decision of Trial Chamber III of 6 January 2012 entitled 'Decision on the defence's 28 December 2011 "Requête de Mise en liberté provisoire de M. Jean-Pierre Bemba Gombo"', 5 March 2012, ICC-01/05-01/08-2151-Red (OA10), para. 31.

³⁵ *Bemba Judgment on Review of Detention*, ICC-01/05-01/08-1019 (OA4), para. 51.

IV. Analysis

22. In respect of Article 58(1)(b)(i) of the Statute, the Chamber finds that the confirmation of the charges against Mr Abd-Al-Rahman constitutes a change in circumstances. However, contrary to the Defence's submissions, the confirmation of 31 charges against the accused is a factor that militates in favour of continued detention, rather than conditional release. According to the consistent and longstanding jurisprudence of the Court, the confirmation of charges increases the risk that an accused may abscond and is not a changed circumstance that would support conditional release.³⁶ The Chamber sees no reason to depart from this established jurisprudence.

23. Moreover, the number, nature and gravity of the charges means that if convicted, a lengthy sentence is likely to be imposed on the accused. This factor increases the risk that the accused may abscond if released.³⁷

24. The Defence further submits that the new information contained in the Investigator's Report in Annex 1 to the Defence's Observations³⁸ constitutes a change in circumstance as it refutes the allegations of potential threats to witnesses in Annex 3 to the Prosecution's Response to 'Requête en vertu de l'Article 60-2' ('Annex 3'),³⁹ which was relied upon by the Pre-Trial Chamber. The Defence submits that the information in the Investigator's Report corroborates its 'pre-existing instructions that from late 2019 into early 2020, indeed until the date [its] client surrendered himself into

³⁶ Appeals Chamber, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Judgment on the appeal of the Prosecutor against Pre-Trial Chamber II's 'Decision on the Interim Release of Jean-Pierre Bemba Gombo and Convening Hearings with the Kingdom of Belgium, the Republic of Portugal, the Republic of France, the Federal Republic of Germany, the Italian Republic, and the Republic of South Africa', 2 December 2009, ICC-01/05-01/08-631-Red (OA2), para. 70. See also Pre-Trial Chamber II, *The Prosecutor v. Bosco Ntaganda*, Third Decision on Bosco Ntaganda's Interim Release, 17 July 2014, ICC-01/04-02/06-335, para. 34; Pre-Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, Sixth decision on the review of Laurent Gbagbo's detention pursuant to article 60(3) of the Rome Statute, 11 July 2014, ICC-02/11-01/11-668, para. 41; Trial Chamber II, *The Prosecutor v. Germain Katanga*, Second Review of the Decision on the Conditions of Detention of Germain Katanga, 12 December 2008, ICC-01/04-01/07-794-tENG, paras. 9-10; Pre-Trial Chamber I, *The Prosecutor v. Thomas Lubanga Dyilo*, Review of the 'Decision on the Application for the Interim Release of Thomas Lubanga Dyilo', 15 February 2007, ICC-01/04-01/06-826, p. 6.

³⁷ Trial Chamber X, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Decision on the Defence request for interim release, 29 May 2020, ICC-01/12-01/18-786-Red, para. 58.

³⁸ Annex 1 to the Réponse aux observations relatives au réexamen de la détention, 22 October 2021, ICC-02/05-01/20-495-Conf-Anx1.

³⁹ Annex 3, ICC-02/05-01/20-95-Anx3.

the hands of the OTP, he was essentially on the run. He was in hiding'.⁴⁰ The Chamber is unable to accept that the contents of this report are capable of providing such corroboration and accordingly rejects this submission.

25. The Defence also submits that the reliability and credibility of Annex 3 are further undermined by the video disclosed by the Prosecution allegedly depicting the event reported in Annex 3.⁴¹

26. The Chamber notes that, in its written submissions, the Defence accepts that the person speaking in the video resembles the accused.⁴² Should the Prosecution seek to use the video in the trial for the purpose of supporting the accused's guilt, on one or more of the charges, evidence relating to the provenance, date, and identification of the speaker may be required. However, this video, taken in conjunction with Annex 3, is capable of lending support to the Prosecution's submissions that the accused, if granted conditional release, presents a potential or actual risk to witnesses because of his previous position of power and the likelihood that he still has supporters who may have access to actual or potential witnesses'.⁴³ The Chamber is unpersuaded that the contents of the video produced by the Prosecution undermine the probative value of Annex 3, (as previously accepted by the Pre-Trial Chamber⁴⁴ and the Appeals Chamber⁴⁵).

27. The Defence's submission recently revealed information about the cooperation between the Court and Sudan to the effect that, in surrendering himself, the accused was in breach of the law that made cooperation with this court an offence punishable by the death penalty is, in the judgement of the Chamber, irrelevant to the issue at hand and is rejected.⁴⁶

⁴⁰ Transcript of the hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG, p. 6, lines 12-23.

⁴¹ Defence Observations on a video disclosed by the Prosecution, ICC-02/05-01/20-500, paras 10-13.

⁴² Defence Observations on a video disclosed by the Prosecution, ICC-02/05-01/20-500, paras 4 ('[l']Orateur est filmé de près et de face et présente une ressemblance certaine avec Mr Abd-Al-Rahman'), 11 ('soit l'Orateur n'est pas, en dépit de sa ressemblance avec lui, Mr Abd-Al-Rahman').

⁴³ Decision on Interim Release, ICC-02/05-01/20-115, para. 29. *See also* Judgment on appeal against the Decision on Interim Release, ICC-02/05-01/20-177 (OA2), para. 35.

⁴⁴ Decision on Interim Release, ICC-02/05-01/20-115, para. 28.

⁴⁵ Judgment on appeal against the Decision on Interim Release, ICC-02/05-01/20-177 (OA2), paras 31-36.

⁴⁶ Defence's Observations, ICC-02/05-01/20-495, para. 8.

28. Furthermore, the Chamber notes that the disclosure of the witnesses' identities is ongoing, with a deadline for full disclosure to the Defence of 5 January 2022.⁴⁷ This disclosure is also dependent on the Prosecution's and the Registry's ability to protect witnesses. The full disclosure of witnesses' identities⁴⁸ and ongoing witness protection are factors that militate in favour of continued detention rather than conditional release.⁴⁹ It is unclear what effect, if any, the events currently taking place in Sudan will have on the present case. Whilst the Chamber notes the LRV's observations at the hearing on detention,⁵⁰ it accepts the Defence's submissions that, in light of the limited information available to the Chamber, these events should not have an impact on the present decision.⁵¹

29. With regard to Article 58(1)(b)(ii) of the Statute, the Chamber accepts the Prosecution's submission that there are no substantially changed circumstances that warrant the release of Mr Abd-Al-Rahman.

30. The Chamber acknowledges Mr Abd-Al-Rahman's right to family visits and that there is a positive obligation upon the Court to render such right effective.⁵² However, this right does not outweigh the other factors considered above. The Chamber further notes that the Defence has not made a request to the Registry for the organisation of video-calls between Mr Abd-Al-Rahman and his family.⁵³ Accordingly, the Chamber rejects the Defence's submission that the right of the accused to have contact with his family is inoperative or that this is a factor compelling the Chamber to order his immediate release.⁵⁴

⁴⁷ Transcript of hearing, 8 September 2021, ICC-02/05-01/20-T-013-ENG, p. 78, lines 1-8.

⁴⁸ Pre-Trial Chamber II, *The Prosecutor v. Jean-Pierre Bemba Gombo et al*, Decision on the 'Requête urgente de la Défense sollicitant la mise en liberté provisoire de monsieur Fidèle Babala Wandu', 14 March 2014, ICC-01/05-01/13-258, para. 19.

⁴⁹ Decision of 5 July 2021, ICC-02/05-01/20-430, para. 28.

⁵⁰ Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG ET, p. 5, lines 3-6.

⁵¹ Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG ET, p. 16, lines 1-9.

⁵² Presidency, 'Public Redacted Version of "Decision on the 'Application to review the 'Decision on Complaint to the Registrar by [REDACTED] concerning Supported Family Visit' dated [REDACTED] 2016", 11 August 2016, ICC-RoR221-02/16-3-Red, para. 42.

⁵³ Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG ET, p. 18, line 3 to p. 19, line 16.

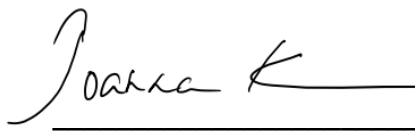
⁵⁴ Defence's Observations, ICC-02/05-01/20-495, para. 9. See also comments provided by the Chamber at the hearing on detention: Transcript of hearing, 25 October 2021, ICC-02/05-01/20-T-015-ENG, p. 19, lines 14-16.

31. Finally, the Chamber rejects the Defence's claim that the fact that the trial is set to commence on 5 April 2022 constitutes a changed circumstance warranting the release of the accused. In the prevailing circumstances, the Chamber finds the trial date reasonable (particularly as the date requested by the Defence was February 2022 and the date requested by the Prosecution was June 2022), as determined by the Chamber in setting the commencement date of the trial.⁵⁵ The claim advanced by the Defence does not override the above conclusions.

32. Considering the above, the Chamber concludes that no change in circumstances has been shown within the provisions under Article 58(1) of the Statute, which warrants the release of the accused, with or without conditions.

33. It is self-evident and in line with the jurisprudence of the Court, that in the interests of justice, the Chamber will continue to review Mr Abd-Al-Rahman's detention until the commencement of the trial.⁵⁶

34. For these reasons, the Chamber decides that Mr Abd-Al-Rahman shall continue to be detained.

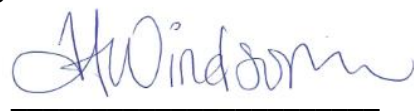


Judge Joanna Korner

Presiding Judge



Judge Reine Alapini-Gansou



Judge Althea Violet Alexis-Windsor

Dated this 1st day of November 2021

At The Hague, The Netherlands

⁵⁵ Transcript of hearing, 8 September 2021, ICC-02/05-01/20-T-013-ENG, p. 76, line 18 to p. 77, line 12.

⁵⁶ Trial Chamber VI, *The Prosecutor v. Bosco Ntaganda*, Fourth decision on Mr Ntaganda's interim release, 31 October 2014, ICC-01/04-02/06-391, para. 5(c); Trial Chamber III, *The Prosecutor v. Jean-Pierre Bemba Gombo*, Transcript of hearing, 8 December 2009, ICC-01/05-01/08-T-18-Red-ENG, p. 24 lines 14-17. *See also* Trial Chamber I, *The Prosecutor v. Laurent Gbagbo*, Decision on the 'Requête urgente aux fins de fixation d'une nouvelle date d'audience portant sur le réexamen des conditions de maintien en détention', 8 October 2014, ICC-02/11-01/11-693, para. 11, in which Trial Chamber I requested submissions in relation to the detention of Mr Gbagbo pursuant to Rule 118(2) and (3) of the Rules.