

Annex A

A. Presentation of evidence by the parties and role of the Chamber

1. In principle, and subject to the powers of the Chamber and of the Presiding Judge pursuant to Article 64(3)(a) of the Statute, the trial will be organised into the following phases:
 - (i) Presentation of evidence by the Prosecutor;
 - (ii) Presentation of evidence by the LRV, if leave is granted;
 - (iii) Presentation of evidence by the Gbagbo Defence;
 - (iv) Presentation of evidence by the Blé Goudé Defence;
 - (v) Prosecutor's evidence in response;
 - (vi) Evidence of the Gbagbo Defence in reply; and
 - (vii) Evidence of the Blé Goudé Defence in reply.

2. In accordance with Articles 64(6)(b) and 69(3) of the Statute, the Chamber may, at any stage of the proceedings, intervene to ensure the fair and expeditious conduct of proceedings, to call witnesses and to order the production of any evidence it considers necessary for the determination of the truth.

B. Calling order and scheduling of witnesses

3. Pursuant to Article 64(3)(a) and having due regard to Article 67(1)(b) of the Statute, the Chamber shall have the power to identify issues critically relevant to its determination of the charges and to instruct the parties to prioritise and bring forward evidence relating to such issues first, subject to adequate notice.
4. The calling party shall provide the Chamber, parties and LRV with a list indicating the following 15 witnesses it intends to call and their calling order, sufficiently in advance of the scheduled testimony. This list shall be provided before the start of the questioning of the last ten witnesses of the previous list and no later than 40 days before the questioning of the first witness on the list

is scheduled to start. If necessary, the Chamber may alter the order of witnesses to the extent required for trial management purposes.

5. Pursuant to Article 67(1)(b) of the Statute, if there is any need to change an order of witnesses, the calling party shall promptly inform the Chamber, the other parties and the participants.
6. With a view to facilitating the exercise of the Chamber's trial managing powers, and as a working document in preparation of a witness's testimony, the calling party shall provide, *via* email, and no later than five days prior to the start of the testimony of each given witness, a concise Witness Examination Sheet, containing the following information:
 - i. A concise statement of factual topics that the witness will be questioned about and how they relate to the charges, unless obvious;
 - ii. A realistic estimate of the amount of time the calling party will need to question the witness;
 - iii. Details of any in-court protective measures, including special measures;
 - iv. An indication of the status of the witness (*i.e.* dual status, vulnerability, potential self-incrimination, etc.);
 - v. Any other relevant information.

In the same email, the calling party shall provide a list of any material it intends to use during its questioning of the witness, including, to the extent that it is feasible, a succinct indication whether it intends to use the material in its entirety or whether it intends to only use specific portions or passages to question the witness.

C. Unsworn statement by the accused

7. The accused has the right to make an unsworn oral or written statement in his defence under Article 67(1)(h) of the Statute. Should either accused decide to exercise this right, the respective Defence team shall file a notice with the Chamber prior to the start of its presentation of evidence. The Chamber will rule on the appropriate moment and modalities for the statement to be made.

D. Order of questioning

8. The calling party shall question the witness first. The Defence teams shall agree amongst themselves the order in which they will question witnesses called by the Prosecutor. When the calling party is either of the defence teams, the defence team not calling the witness may question the witness before the Prosecutor starts her questioning.
9. The LRV shall question the witness after the calling party, subject to the requirements set forth in Section E.
10. Pursuant to rule 140(2)(c), the Chamber may question a witness at any time during his or her testimony.
11. The calling party may apply to question the witness after the non-calling party has finished his or her questioning subject to the limitations set forth in paragraph 25.
12. The defence teams shall have the right to be the last to question a witness pursuant to rule 140(2)(d) of the Rules.
13. The parties shall always be prepared to continue with the following witness, even if the testimony of the previous witness has required less time than estimated.

14. The re-calling of witnesses shall only be exceptionally allowed on the basis of overriding reasons or unforeseeable developments having arisen after the conclusion of the questioning by the parties and by the Chamber.

E. Questioning by the LRV

15. Pursuant to Article 68(3) of the Statute, the LRV may question a witness after the calling party to the extent that the questioning is relevant to the victims' interests.
16. The LRV may question a witness with leave of the Chamber. As a general rule, an oral application in accordance with rule 91(3)(a) of the Rules will suffice, unless the LRV wants to rely on items of evidence for its questioning that were not already relied on by any of the parties in relation to the same witness. In the latter case, the LRV shall make a written application, no later than 48 hours before the calling party is expected to finish her questioning. Such written applications shall be communicated confidentially to the parties, *via* email, and shall contain the list of items of evidence the LRV proposes to use during its examination of the witness and explain the purpose behind the use of those items. If any of the parties wishes to make observations on the application of the LRV, it shall promptly inform the Chamber.
17. Questioning by the LRV shall not be repetitive of questioning by other parties, shall be conducted in a neutral manner and be limited to issues that are directly relevant to the victims' interests.

F. Presentation of evidence at the request of LRV

18. Pursuant to Article 68(3) of the Statute, the LRV may apply to (i) present evidence; or (ii) call witnesses, when this relates to the victims' interests and concerns.

19. An application by the LRV to call a witness shall include [*inter alia*] (i) the name and identifying information of the witness; (ii) witness statement and/or a detailed summary of the expected testimony; (iii) an estimate of the length of time considered necessary for questioning; (iv) a list of any material the LRV wishes to use during questioning; (v) details of any in-court protective measures that would be sought.
20. Additionally, for any proposed witness, or an application to submit non-testimonial evidence, including documentary evidence, the LRV shall give concise information as to why the testimony of the proposed witness or the piece of evidence: (a) is relevant to the victims' interests and to the matters at issue in the case, (b) would contribute to the determination of the truth and not be repetitive of evidence already before the Chamber, and, as such, would not be inconsistent with the rights of the accused and a fair and expeditious trial.
21. The LRV application and the relevant documents shall be notified to the parties as soon as possible and no later than one month before the expected end of the Prosecutor's case.

G. Scope of questioning

22. In principle, questions shall be clear and directly relevant to the charges.
23. Parties are directed to focus their questioning on facts and to refrain from asking the witness to speculate or to provide opinion evidence. It is the responsibility of examining counsel to elicit the basis of the witness's knowledge for every relevant fact.
24. The Chamber may at any time request the questioning party to state the purpose behind a given line of questioning and explain how the evidence

sought is relevant to the charges. Whenever appropriate, this request will be made out of earshot of the witness.

25. Re-questioning of the witness by the calling party shall only be allowed to the extent that it bears upon and is limited to issues having arisen during questioning by the non-calling parties or the LRV.
26. Questions bearing on issues potentially relevant to an order for reparations in accordance with article 75 of the Statute and regulation 56 of the Regulations of the Court are allowed to the extent that they are conducive to avoiding recalling witnesses and provided they do not violate the right of the accused to a fair and expeditious trial, whether in content, formulation or tone.

H. Mode of questioning

27. All questioning shall be conducted in a focused, precise and succinct manner. The parties are strongly encouraged to avoid long and compounded questions, which might result in confusing or misleading the witness. Repetitious lines of questioning shall not be allowed.
28. In principle, and without prejudice to Section K hereunder, all parties and participants shall examine witnesses by way of neutral questioning. Leading and closed questions may be permissible when they are conducive to the expeditiousness of the proceedings and the determination of the truth.
29. The questioning party shall refrain from paraphrasing the testimony made by the witness in the courtroom or from unnecessarily requesting the witness to reiterate such testimony.
30. In light of the Chamber's mandate to discover the truth, and also in order to avoid recalling witnesses, the questioning by the non-calling party is not limited to issues raised during the questioning by the calling party insofar as it is relevant to the charges.

31. Questioning by all parties shall remain at all times civil and respectful. Under no circumstances will questions aiming at assaulting the dignity or exploiting the vulnerability of the witnesses be allowed.

32. The parties shall have the discretion to determine whether the questioning will be conducted by one or more persons within their team, subject to the Chamber directing otherwise in light of the circumstances specific to each questioning and to each witness.

I. Objections concerning the mode, manner and scope of questioning

33. Objections by a party or participant concerning the mode, manner or scope of questioning by another party or participant must be raised with the Chamber at the time the question is asked, and will be decided on a case-by-case basis.

J. Use of material during the examination of a witness

34. The calling party shall provide the Chamber, other parties and the LRV with a list of any material it intends to use during its questioning of witnesses, as further specified in paragraph 6 above.

35. Notification by the non-calling party and by the LRV of material they intend to use during their questioning shall be made as soon as feasible and no later than 24 hours before the expected start of their questioning.

36. The parties and the LRV may always seek leave to use during their questioning additional material other than the one included in the list, subject to demonstrating to the Chamber the relevance of such additional material and the reasons for which it was not originally included in the list, without prejudice to the rights of the defence pursuant to Article 67 of the Statute. In light of this, the parties shall refrain from communicating more documents than they actually intend or are able to use for the purpose of the questioning of the witness.

37. Pursuant to rule 64 of the Rules, objections to the material or to its use which have not been raised and solved on an *inter partes* basis beforehand shall be raised orally before the Chamber at the moment when the item is used.
38. To the extent possible, the party intending to use the material (and the LRV, if applicable) shall ensure that electronic copies of this material have been uploaded into E-Court prior to their use during trial.

K. Use of prior statements during the course of the testimony

39. In principle, the testimony of a witness at trial shall be given in person. Unless special permission is given by the Chamber, witnesses are not permitted to bring any documents pertaining to their testimony into the courtroom or to read from earlier statements or other documents.
40. The calling party may seek leave to refer to and read out portions of the witness's earlier statements insofar as the statement has been properly disclosed to the non-calling party.
41. The Chamber may allow the parties to use an earlier statement during the questioning to the extent that the reference to the earlier statement is aimed at either (i) refreshing the witness's memory or at (ii) confronting the witness with earlier statements that appear to contradict or are inconsistent with the witnesses' sworn testimony. Witnesses shall be given a reasonable opportunity to explain any apparent contradictions and/or inconsistencies.
42. The relevant portion of the statement shall be read out loud *verbatim* in the record so that it is adequately reflected in the transcript of the witness's testimony. The use of a portion of statement during the questioning does not make the statement submitted.

L. Introduction of documentary evidence

43. In the interest of the efficiency of the proceedings, the parties are encouraged to introduce documentary evidence other than testimonial (i.e. documents and audio-visual material), whenever feasible. They may introduce documentary evidence directly, without producing it by or through a witness.
44. The introduction of any item of documentary evidence shall be accompanied by succinct information indicating (i) the item's relevance, its probative value (including authenticity); and (ii) the date on which it was disclosed to the other parties.
45. If a party wishes to submit audio-visual material to the Chamber, the material shall be made available in E-Court in advance to the relevant hearing. The party shall indicate which excerpts of the recording will be used in the courtroom and provide a transcript (if necessary, translation into one working language) of those excerpts into one working language of the Court.
46. With a view to enhancing the efficiency of the proceedings and to avoiding unnecessary duplication of work, the parties are strongly encouraged to liaise and cooperate as regards the possible sharing of transcripts which might already be available to either of them.
47. Pursuant to Article 69(3) of the Statute, documentary evidence other than testimonial shall be considered as being before the Chamber in its entirety, irrespective of the fact that the parties intended only to rely on portion(s) thereof. Nevertheless, the party shall indicate the relevant portion of such item it intends to rely on. Accordingly, the Chamber will consider the entirety of the item in order to ascertain the correct meaning of the portions used by the parties and to determine their evidentiary weight. If the Chamber intends to rely on other portions of the item for the purpose of supporting any findings relating to the charges, it will give notice to the parties.

M. Prior recorded testimony

48. The parties may make use of prior recorded testimonies with a view to maximising the efficiency of the time spent in the courtroom.
49. Any application pursuant to Rule 68 of the Rules relating to witnesses who are available and expected to testify before the Chamber shall be filed as early as feasible and no later than 21 days before the date the witness is scheduled to appear, with any objections thereto filed no later than 10 days after notification. The application shall also indicate any topics which will be addressed orally beyond confirming, clarifying or highlighting the passages of the prior recorded testimony that will be entered in written form.
50. Rule 68 applications relating to witnesses not available to testify within the meaning of Rule 68 of the Rules may be filed at any time, with objections thereto filed no later than 15 days after notification.
51. Any Rule 68 applications shall be annexed by copies of the previously recorded testimony and shall identify the passages the party wishes to submit as evidence. If these passages contain references to other material available to the calling party, without which the passages would not be understandable, these materials shall also be attached to the application.

N. Judicial notice

52. As a tool for expediting the proceedings, the Chamber may take judicial notice of facts of common knowledge, whether on its own motion after having heard from the parties or upon the request of the parties.
53. The Chamber understands facts of common knowledge for the purposes of judicial notice as being facts which are either notorious or capable of ready determination by resort to sources whose reliability and accuracy cannot reasonably be questioned.

54. The parties are encouraged to identify facts which are relevant to the case and which could be subject to judicial notice and to submit them to the Chamber for its consideration.

O. Protective measures

55. Any applications for in-court protective measures, including those made pursuant to Rules 87 and 88 of the Rules, shall be made as soon as possible so as to allow the Victims and Witnesses Unit ("VWU") to fulfil its mandate.

56. As a general rule, in light of the professional, case-specific and neutral nature of the assessments given by the VWU, as well as of the powers vested in the Chamber pursuant to Rule 87(2)(d) of the Rules, protective and special measures sought by any party which are supported by a favourable assessment and recommendation by the VWU will be granted by the Chamber.

57. The parties are instructed to liaise with the VWU and to confidentially notify the Chamber, parties and participants of the protective measures sought and the favourable VWU assessment sufficiently in advance of the moment when the protective measures need to be implemented, also with a view to allowing the non-requesting party to submit observations of a case-specific nature whenever appropriate pursuant to Rule 87(2)(d). The information which the applying party seeks to withhold from the other party shall be provided in an *ex parte* annex to the application.

58. The Chamber will promptly rule on any case-specific objection which might be raised by either party in connection with the compatibility of the protective measure with the fairness of the proceedings.

P. Private and closed session

59. Insofar as possible, testimony shall be given in public. Reasoned requests for private and/or closed sessions shall be made in a neutral and objective way and specifically refer to the topics that would be covered. To the extent possible, the parties are directed to group identifying questions together to avoid unnecessary recourse to closed and/or private session.

Q. Transcripts

60. The Registry shall publish the public redacted version of the French and English transcripts within two days of the notification of the edited confidential version. Thereafter, the calling party shall review the transcript and propose a lesser redacted version within one week of notification by the Registry of both the English and the French versions of the transcript. Within three days of receiving the proposed lesser-redacted version, the other parties may raise any objections. Should no objections to the proposed lesser-redacted version be made, the Registry shall file it in the record of the case with the appropriate document number designation.

61. Requests for corrections to the transcript shall be submitted to the Registry within five working days from the notification of both the French and the English of the edited version of the transcript. The requests to the Registry shall refer to the edited version of the transcript and contain a table providing: (i) full reference of the transcript, date and the case name, (ii) the passage extracted from the edited version of the transcript, containing the discrepancies to be reviewed, (iii) the pages, lines and time stamps of the passage to be reviewed, and (iv) the language originally used by the speaker. The Registry shall apply any corrections to the transcript in accordance with its normal methods.