

From: Trial Chamber V Communications
Sent: 26 February 2021 15:30
To: OTP CAR IIB Managers; OTP CAR IIB Case Management;
 [REDACTED]
Cc: Trial Chamber V Communications; Chamber Decisions Communication
Subject: RE: Evidentiary blocks
Follow Up Flag: Follow up
Flag Status: Flagged

Dear counsel,

The Chamber takes note of the below Prosecution email, seeking guidance on the Chamber's instruction to the parties to provide substantial summaries of the witnesses' anticipated testimonies, highlighting the portions which it plans to elicit in private/closed session (email from the Chamber, 18 February 2021, at 09:20).

The Chamber finds that the summaries provided by the Prosecution in its requests under Rule 68(3) of the Rules of Procedure and Evidence (the 'Rule 68(3) Requests') are not 'substantial' within the meaning of the Chamber's instructions. The summaries provided in the Rule 68(3) Requests are more akin to a list, or an overview, of the topics that the witnesses cover in their statements. As such, they are neither sufficiently detailed, nor do they enable the Chamber to fully understand the narrative or sequence of events. The Chamber notes that they are also not apt for highlighting the portions which the Prosecution plans to elicit in private/closed session (for instance, information on the witness's background is not included).

The Chamber observes that the practice of providing summaries of anticipated testimonies is not new before this Court and has been employed before other chambers (for instance, in the case of *The Prosecutor v. Dominic Ongwen*). The Prosecution is expected to draw upon the existing practice.

Kind regards, TC V

From: Vanderpuye, Kweku [REDACTED]
Sent: 23 February 2021 18:11
To: Trial Chamber V Communications [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: RE: Evidentiary blocks

Dear Trial Chamber V,

Thank you for the information below. This will be enormously helpful in our continuing efforts to further organise the presentation of evidence.

The Prosecution notes the Chamber's reference to '*substantial*' summaries, referencing ICC-01/14-01/18-631 in regard to the material to be provided in conjunction with a witness's anticipated testimony, and indications of private/closed sessions.

As a point for clarification, given that the Prosecution has provided and will provide summaries in respect of witnesses whose evidence it intends to lead pursuant to rule 68(3) (the prevalent mode of anticipated testimony), we would like to know whether — other than additionally indicating if the particular subject matter will be led in private/closed session — the Chamber's intention is for us to produce a separate and additional summary *de novo*.

For those witnesses intended to be called fully *viva voce*, we will of course create summaries anew. However, as regards rule 68(3) witnesses our present intention is to essentially adapt the same summaries (or types thereof) that have been/ will be provided, in that context in accordance with the new instruction. See for instance, ICC-01/14-01/18-861-Conf, pp. 6-8; ICC-01/14-01/18-750-Conf, pp. 8-10.

Although summaries will necessarily change from witness to witness, it would be very helpful to know whether the Chamber considers the types provided in the rule 68(3) applications to date are generally 'substantial' enough or if the Chamber considers that further information is necessary.

We would appreciate any guidance in this respect, such that we may appropriately determine and allocate our very limited resources to proceed in the most efficient way possible.

Thank you for your consideration.

Kind regards,

Kweku Vanderpuye

From: Trial Chamber V Communications [REDACTED]

Sent: 18 February 2021 09:20

To: OTP CAR IIB Managers [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: Evidentiary blocks

Dear all,

The Chamber recalls its *Order Setting the Commencement Date of the Prosecution's Presentation of Evidence* (ICC-01/14-01/18-817), in which it decided that the Prosecution's first evidentiary block will be held from 15 to 31 March 2021 (with the exception of 17 and 24 March 2021) and noted that further dates would be communicated in due course.

The Chamber hereby informs the participants that the following evidentiary blocks will be held as follows:

- 26 April – 12 May 2021
- 24 May – 18 June 2021
- 5 July – 23 July 2021

The Chamber further instructs the calling party to provide, jointly with its list of material to be used during its witness examination (see Initial Directions, ICC-01/14-01/18-631, para. 41), substantial anticipated summaries of the witnesses' testimonies, highlighting in grey the portions which it plans to elicit in private/closed session (see Initial Directions, ICC-01/14-01/18-631, para. 46).

Kind regards, TC V