

Annex 20

Public

From: Trial Chamber I Communications
Sent: 03 March 2022 17:33
To: Abd Al Rahman Prosecution Team
Cc: Trial Chamber I Communications; Chamber Decisions Communication
Subject: Filing 609-Conf-Exp

Dear Mr. Nicholls,

The Chamber notes that on 25 February 2022, the Prosecution submitted a Request for in-court protective measures (filing 609, the 'Request'). The Request was filed *ex parte* (OTP and VWS only). A confidential redacted version was notified that same day to the Defence and the LRVs.

The Chamber notes that in the confidential redacted version, information is currently withheld from the Defence, although it is of clearly relevance to the Defence's submissions before the Chamber, particularly in matters of cooperation.

As the Prosecution is well aware an issue which has been raised by the Defence on numerous occasions in both written and oral submissions is that any person who is seen by the Sudanese authorities to be co-operating with the ICC is subject to sanctions.

The Chamber notes that during the status conference on 12 November 2021, the Prosecution discussed, *inter partes*, the difficulties it was facing in Sudan, including in relation to protection (see T-017, page 9, line 4 *et seq.*). The Chamber also notes that during the hearing on 17 December 2021, the Prosecution indicated, *inter partes*, that the situation in Sudan had improved and missions to that country had resumed (T-018, p. 15, line 25 *et seq.*). During the status conference on 7 February 2022, the Prosecution stated, *inter partes*, that the situation had further improved and that the Prosecution was in contact with a focal point with the Ministry of Justice (T-020, p. 21, line 19 *et seq.*). The Prosecution also submitted that obstacles with Sudan were bureaucratic and rejected the Defence's suggestion that Sudan was unwilling to cooperate (T-020, p. 26, lines 8 *et seq.*). In the *ex parte* status conference on 8 February 2022, the Prosecution informed the Chamber it had met with the focal point for the Ministry of Justice and was attempting to meet with the focal point for the Ministry of Defence (T-023, p. 2, line 25 *et seq.*). In that same hearing, the Prosecution reassured the Chamber that there was no criminalisation and that witnesses were worried about retaliation and not about being prosecuted (T-023, p. 4, lines 10-11).

The Chamber notes that the following information contained in confidential *ex parte* version of the Request may be of relevance for the Defence:

Main Filing

Para 19: Focal Point of the Government of Sudan is not authorised to meet with the Prosecution.

Para 20: reduced ability of the Prosecution to mitigate risks to its witnesses in Sudan.

Anx A

Page 3: In respect of P-0188, who says he fears losing his job as a policeman if his cooperation with the Court is known.

Page 4: In respect of P-0874, who says there was an attempt to assassinate him.

Page 13, in respect of P-0884, who says he has been threatened to public exposure.

Page 7: In respect of P-0994, who says he believes he could be prosecuted if the Government of Sudan knows of his cooperation.

Page 16: In respect of P-0986, who says in 2021 Government of Sudan members were looking for individuals who had met with the ICC.

Accordingly, the Chamber orders that a summary of this information shall be provided to the Defence as soon as possible and no later than COB, 7 March. At present, the Prosecution need not to disclose the identity of the witnesses in the said summary.

The Chamber also reminds the Prosecution of its general obligation to disclose material which may be deemed to be exculpatory or material for the preparation of the Defence.

Kind regards,



(on behalf of Trial Chamber I)