

Status Conference

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet
7 Alexis-Windsor
8 Status Conference - Courtroom 2
9 Monday, 16 October 2023
10 (The hearing starts in open session at 9.36 a.m.)
11 THE COURT USHER: [9:36:43] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:37:04] Good morning, everybody. I won't say
15 welcome back as this case limps on, but we are all gathered together again; so let's
16 start with the appearances from the Prosecution.
17 MR NICHOLLS: [9:37:40] Good morning, Madam President. Good morning,
18 your Honours. Good morning to everybody in the room. Julian Nicholls, with
19 Claire Sabatini, Ed Jeremy, Laura Morris, Diana -- Diana Saba, Rachel Mazzarella and
20 Alison Whitford. Thank you.
21 PRESIDING JUDGE KORNER: [9:37:57] Thank you.
22 Yes, the Defence.
23 MR LAUCCI: [9:38:02] Good morning, Madam President, your Honours, dear
24 colleagues, members of the public. In the Defence for Ali Muhammad Ali
25 Abd-Al-Rahman, we have Madam Audrey Mateo –

1 PRESIDING JUDGE KORNER: [9:38:19] I'm not getting a translation. It's on
2 English. Sorry, Mr Laucci, can you start again? I'm not --

3 MR LAUCCI: [9:38:22] I can even do it in English, no problem.

4 PRESIDING JUDGE KORNER: [9:38:27] Yes, that's it. No, no, that's fine. No, no,
5 it wasn't -- even I understood what you were saying in French, it's just that I wasn't
6 getting a translation. Okay. Can you just say it again for the record.

7 MR LAUCCI: [9:38:46] Yes.

8 So, together with Mr Abd-Al-Rahman this morning in the room, Mr Ahmad Issa, our
9 case manager; Madam Audrey Mateo, our legal adviser; co-counsel, Iain Edwards;
10 and myself, Cyril Laucci.

11 PRESIDING JUDGE KORNER: [9:39:01] Thank you.

12 And the victims' representatives, please.

13 MS VON WISTINGHAUSEN: [9:39:05] Yes. Good morning, Madam President,
14 your Honours, dear colleagues. Good morning to everyone in and around the
15 courtroom.

16 The participating victims this morning are represented by associate counsel, Anand
17 Shah; our case manager, Saif Kassis; and behind me we have our new visiting
18 professional, Charlotte Imhof; and myself, Natalie von Wistinghausen. Thank you.

19 PRESIDING JUDGE KORNER: [9:39:27] Thank you very much. All right. Well,
20 we have a number of matters to deal with, but I suppose the first is the request that
21 was sent late last night -- well, yes, very late last night. I must say, I think you could
22 have sent this a bit earlier. But, Ms von Wistinghausen, do you want to go into
23 private session to deal with the witnesses or are you happy to deal with this in open
24 session?

25 MS VON WISTINGHAUSEN: [9:40:04] No, I think we can deal with this in open

1 session. We don't have to give specific locations necessarily.

2 PRESIDING JUDGE KORNER: [9:40:12] Right.

3 MS VON WISTINGHAUSEN: [9:40:13] And to address what you just said, no, I
4 could not have sent it earlier because, as you can see, we received information quite
5 late yesterday and then we tried to put it in a comprehensive text and that just takes
6 time.

7 PRESIDING JUDGE KORNER: [9:40:35] All right. Well, I mean, to cut this short,
8 I think we can say that the problems do appear to be insoluble at the moment -- I
9 mean, in the sense that you can't call them until they've had time to, as it were, get
10 over the journey.

11 MS VON WISTINGHAUSEN: [9:40:56] Well, maybe just to put it in a nutshell, given
12 the situation communicated by Mr Laucci a couple of days ago -- and I will let him
13 address, of course, the specific circumstances -- it seems to me that there will -- that it
14 won't be possible to call any Defence witnesses this week, which of course gives us
15 more courtroom availability for the presentation of the victims' case.

16 PRESIDING JUDGE KORNER: [9:41:23] Yes. What I -- well, your suggestion is
17 that they should be on Thursday and Friday?

18 MS VON WISTINGHAUSEN: [9:41:31] Ideally that would be our request. As
19 things stand this morning, it looks as if this is not only realistic, but would really
20 happen. The advantage of having the Friday is that as V-4 has arrived in the place
21 where he can have a visa for the Netherlands issued, there is good -- yeah, I mean, I
22 always try to be cautious with perspectives, but it looks as if he could have a visa for
23 the Netherlands very quickly, which would allow him to appear in person which, as
24 we know, of course, is the much better option than video link.

25 PRESIDING JUDGE KORNER: [9:42:22] Well, I don't see that it is a better option; it's

1 just that the witness wants to come over. But it's actually simpler in every respect if
2 he gives his evidence via video link as the other witness is going to.

3 I mean, having to get him a visa for the Netherlands, plus paying for the flight, plus
4 everything else --

5 MS VON WISTINGHAUSEN: [9:42:43] Well, that is actually the normal way things
6 function in the VCL, is -- you know, when there are difficulties to get the people here
7 in person. But, of course, I mean, you know, we are making compromises. The
8 second-best option is the VCL and, of course, we have always said, you know, if that's
9 the only option we have -- and actually we are quite happy and grateful to be able to
10 hear them at all this week because, as you know, they have been on a long journey for
11 the past four, five weeks and it's been very difficult. So --

12 PRESIDING JUDGE KORNER: [9:43:15] Is there any reason -- I mean, I'm just
13 asking, I see that one of the witnesses hasn't arrived yet and isn't expected till
14 Tuesday, but is there any reason why the witness who is already there, can't testify,
15 say, on Wednesday, with the other witness on Thursday, on the basis that we
16 effectively accede to Mr Laucci's request that he doesn't open his case until Monday?

17 MS VON WISTINGHAUSEN: [9:43:50] I think, yes. I mean, if now the journey of
18 V-5 goes smoothly and she's about to meet VWS staff this morning --

19 PRESIDING JUDGE KORNER: [9:44:02] Well, that's what I -- it seems to me that the
20 most sensible option out of all of this, is -- Mr Laucci having wanted, in any event, not
21 to open his case this week -- we hear from the witness who is already there and who,
22 therefore, will have relaxed and whatever, on Wednesday, and the other witness on
23 Thursday.

24 I mean, this is views and concerns, isn't it, so each of them shouldn't take more
25 than -- what, a couple of sessions?

1 MS VON WISTINGHAUSEN: [9:44:35] Well, we estimated to do three sessions, just
2 like the other participating victims who appeared before you in July. This is an
3 estimate, more or less. Yes, it is views and concerns, it is not evidence, but it is
4 important.

5 PRESIDING JUDGE KORNER: [9:44:44] No, I'm not suggesting it is not important
6 but, I mean, it's therefore, it -- there won't be any cross-examination and, therefore,
7 I'm assuming there won't be. Mr Laucci?

8 MR LAUCCI: [9:44:56](Interpretation) I'm going to answer the question, yes,
9 effectively, there wouldn't be cross. You have mentioned that the Defence would like
10 to open its case on Monday. That is feasible, but considering I think this is
11 a complex issue, given the programme of this block, the best solution for our opening
12 the case would, in reality, be on Friday, the 21st -- or the 20th, I think. The reason is
13 that for purposes of our investigations, I have no choice but to travel in the evening of
14 Friday the 27th, so I cannot be present here in the afternoon of Friday the 27th. So
15 that limits the time of D-16, so he may begin on the 23rd.

16 So that's why I think we need to start D-16 from the morning of Monday the 23rd,
17 rather than the afternoon. That's why we want to open on Friday; that would be the
18 ideal. But now I have heard about all the difficulties now if we have to do our
19 opening speeches on Monday morning, we will take only two sessions without going
20 into the third. That will make it possible for them to have time, but we are ready to
21 make that additional effort if that is necessary.

22 That is what I wanted to say as my contribution to the discussion.

23 PRESIDING JUDGE KORNER: [9:47:22] Okay. Sorry, so your problem is you need
24 to leave the following Friday, not this coming Friday, the 27th at lunch time, and you
25 think D-16 can --

1 MR LAUCCI: [9:47:42](Interpretation) For D-16, we have allocated three days of
2 examination. The OTP was talking about two or three sessions, maybe two complete
3 days, and if victims have questions, as well as the Chamber, and possibly additional
4 examination by the Defence -- so the time of his appearance will be very tight. So
5 having the full week starting on Monday morning, 9 o'clock, any time reduced from
6 that would be a risk.

7 (Counsel confers)

8 PRESIDING JUDGE KORNER: [9:48:57] All right. So, Mr Laucci, you're saying
9 it's going to take you two sessions to open the case?

10 MR LAUCCI: [9:49:04](Interpretation) In reality, two to three sessions. If we have
11 to take two sessions, then we will have to considerably cut down on what has been
12 written and that will affect the substance. So three sessions would be ideal.

13 PRESIDING JUDGE KORNER: [9:49:25] Yes, all right. I'm not going to say -- I've
14 forgotten how many hours we gave you, but you can have all of those hours,
15 obviously. I'm just trying to work it out logistically. I am just wondering, I know
16 you say you don't want to start and go overnight, as it were, in your opening, but, I
17 mean, that happens quite often and indeed the Prosecution went into, I think, the
18 second day.

19 It just occurs to me that in order to make sure that you complete it -- and I have some
20 difficulties on Friday afternoon, that's the real problem, but is there any
21 reason -- other than I know you don't want to -- but why you couldn't start when the
22 views and concerns of the second victim is finished, say, on Thursday afternoon?

23 MR LAUCCI: [9:50:35] That would be ideal, but given -- it's not ideal, but given the
24 difficulties, we will accept to do that.

25 PRESIDING JUDGE KORNER: [9:50:44] All right. Well, in that case, then I think

1 what we'll do --

2 Sorry, Mr Nicholls, I haven't asked you for your views and concerns.

3 MR NICHOLLS: [9:50:55] Thank you. I just wanted to make one point clear. So

4 we are taking it now as certain that 6 and 8 are not coming this week, that it will be

5 D-16, the only witness in this block, just for our prep, because it's changed a bit.

6 Having been working on D-16 coming up, we would revise our cross to three sessions.

7 So we had earlier said one to two, but we think -- actually, I think the direct has

8 grown as well, so we would request that we have one full day for our

9 cross-examination and not be squeezed and have to end early for redirect because of

10 Mr Laucci having to fly.

11 PRESIDING JUDGE KORNER: [9:51:43] No, I understand that. And he is going to

12 be here, is he, Mr Laucci, physically here, not on video link?

13 MR LAUCCI: [9:51:52](Interpretation) Yes, he will be present in the room.

14 PRESIDING JUDGE KORNER: [9:51:54] All right. Well, I mean, if the worst comes

15 to the worst, he can -- he will have to stay -- because he's obviously a big witness for

16 you and the Prosecution will want to cross-examine. So if the worst comes to the

17 worst, he can just stay over the following weekend, but we would hope to complete it.

18 All right. Well, then, subject to that --

19 Yes, Mr Nicholls?

20 MR NICHOLLS: [9:52:18] Just, your Honour, from what you said --

21 PRESIDING JUDGE KORNER: [9:52:22] Oh, were not sitting?

22 MR NICHOLLS: [9:52:23] -- the following week we are not scheduled to sit.

23 PRESIDING JUDGE KORNER: [9:52:23] All right. Okay. In that case, one way or

24 the other, even if we have to sit a little longer, we will do that.

25 All right. What I will say is this: As far as the victims who are going to give

1 evidence, V-4 can appear on Wednesday and V-5 on Thursday, unless, as you say, the
2 desire to come here is fulfilled.

3 And then, Mr Laucci, very very helpfully, you can start your opening on Thursday
4 and complete on Friday, all right, and then D-16 will take the rest of this block of
5 evidence. At least we're rescuing something, I suppose, here.

6 All right, that's then the first thing, unless there's anything -- yes?

7 MR LAUCCI: [9:53:24](Interpretation) Last clarification, your Honour, on Friday, we
8 will sit only in the morning, so we have just the two sessions to complete our opening.

9 PRESIDING JUDGE KORNER: [9:53:45] I would prefer that, but I'm not -- I mean, if
10 you need more time and if we have to go into the afternoon, then we'll go into the
11 afternoon.

12 MR LAUCCI: [9:53:54](Interpretation) If we start Thursday afternoon, I think we
13 would have concluded.

14 PRESIDING JUDGE KORNER: [9:54:00] All right. Well, that's very helpful.

15 Thank you very much, Mr Laucci. All right.

16 So that's -- unless there is anything else on witnesses, can we move then to the next
17 topic, which is the fact of your opening and your application, Mr Laucci. And I
18 think we had better go into private session for this.

19 (Private session at 9.54 a.m.)

20 THE COURT OFFICER: [9:54:31] We are in private session, Madam President.

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19 (Open session at 10.14 a.m.)
20 THE COURT OFFICER: [10:14:26] We're back in open session, Madam President.
21 PRESIDING JUDGE KORNER: [10:14:37] Yes. Apparently --
22 MR EDWARDS: [10:14:42] I'm sorry, your Honour, I was discussing with Mr Laucci
23 that there were a couple of matters to deal with in private session, just to get your
24 Honours up to speed in terms of one or two other witness-related matters, but we can
25 deal with it, perhaps, after a period of open session.

1 PRESIDING JUDGE KORNER: [10:15:00](Microphone not activated) Sorry. I'm
2 told that the microphone, Ms Schauder, was -- was cut off during your introduction.
3 I don't remember you doing an introduction. But she has just got to say who she is.
4 Yes. All right, Ms Schauder, can you just get up and say who you are again. I
5 forgot to get you to introduce yourself at the beginning.

6 MS SCHAUDER: [10:15:38] No problem at all. Natacha Schauder, senior manager
7 in the Victim and Witnesses Section of the Registry.

8 PRESIDING JUDGE KORNER: [10:15:51] Thank you very much.

9 We're now in open session, are we? Right.

10 Okay. There are a few matters really relating, first of all, to the witness for next week.

11 What's he called? No, I'm sorry, what's his number? I've forgotten. V-16 -- D-16,
12 sorry.

13 Mr Laucci, parts of his statement could be said to be giving expert evidence, but I
14 think as far as that's concerned, we'll see how we go when you call him.

15 But, Mr Nicholls, can I just ask, are the Prosecution going to take any objection to any
16 parts of his statement?

17 MR NICHOLLS: [10:16:29] Well, at this stage, no, but he's testifying viva voce, so
18 we'll see how we go, and we did actually think about that and -- and discuss whether
19 to say this is expert, any -- but we decided not to. And as long as it doesn't go too far,
20 we think we can deal with it on cross.

21 PRESIDING JUDGE KORNER: [10:16:56] Right. Okay. Thank you very much.

22 Now coming to the person who is an expert -- just let me, sorry, get his number.

23 MR LAUCCI: [10:17:11] It's D-23, Madam President.

24 PRESIDING JUDGE KORNER: [10:17:16] Thank you very much, Mr Laucci.

25 There, there really is a dispute, and so I'm going to outline what the Chamber

1 proposes should happen.

2 Do you have any idea -- well, first of all, Mr Laucci, do you have any idea when you
3 are likely to be calling him?

4 MR LAUCCI: [10:17:37] Our intention, if that is possible, it would be the first
5 witness for the block of November.

6 PRESIDING JUDGE KORNER: [10:17:40] Right. Well, okay, in that case, we will
7 deal with the issue of whether his expertise covers the areas where the Prosecution
8 say it does not. It means he will have to testify in a voir dire, in the same way as the
9 voir dire we did on the other piece of evidence, and the Chamber will then decide,
10 which may necessitate a gap, whether or not he is entitled to give that part of his
11 evidence to which the Prosecution objects.

12 Technically, because it's a voir dire, Mr Nicholls, are you likely to be calling an expert
13 on this issue at all, or is it simply going to be cross-examination?

14 MR NICHOLLS: [10:18:41] Cross.

15 PRESIDING JUDGE KORNER: [10:18:42] Right.

16 And then we will make a ruling, and the evidence can continue, but I want to make it
17 clear because there seems to be some divergence of practice between various
18 Trial Chambers about what happens if evidence is -- if part of the opinion that the
19 expert expresses is held to be outwith his competence as an expert. If that is the case,
20 then he cannot give that evidence. I want to make that quite clear so that everybody
21 understands it.

22 I'm told there's been a rather odd practice that, even if it's ruled he's not an expert
23 in -- in a particular aspect of his -- of his proposed evidence, the evidence is still given.
24 Well, it seems to me that's absolutely pointless, because it's a waste of everybody's
25 time. If he hasn't got the expertise, he can't express the opinion. So just so that's

1 clear to both sides.

2 MR LAUCCI: [10:19:51](Interpretation) It's very clear, your Honour.

3 With this first appearance of voir dire, in order to obtain certain indications from the
4 Chamber on the impact on the timing and what we can plan in the first appearance of
5 voir dire, and the second appearance for the organisational purposes of the block, of
6 course.

7 PRESIDING JUDGE KORNER: [10:20:16] Yes, I think what we would -- obviously,
8 we'd have some kind of a break between hearing him on this issue, but not a
9 particularly long one, and I think we'd give full reasons in writing at a later date. So
10 I think you can work on the basis - he's likely to take what? - giving him a week or so?

11 MR LAUCCI: [10:20:51](Interpretation) Yes, that would seem reasonable.
12 Maximum, I would say, one week.

13 PRESIDING JUDGE KORNER: [10:20:56] Right. All right, well, in that case we'd
14 hear -- I'm assuming that the issue would take around two sessions? I don't know.
15 Yes, something like that. And then we try and reach a conclusion in the afternoon.
16 All right. So he should be here first thing --

17 MR LAUCCI: [10:21:17](Interpretation) Very well. So, if you render your decision
18 on the same day, that means that he can go the next day.

19 PRESIDING JUDGE KORNER: [10:21:24] Yes.

20 MR LAUCCI: [10:21:25](Interpretation) Very well.

21 PRESIDING JUDGE KORNER: [10:21:30] We'll try and do that. I mean, I can't
22 guarantee it, we'll have to see what the nature of the challenge is, but we would
23 certainly -- he would certainly continue pretty shortly after that.

24 MR LAUCCI: [10:21:41](Interpretation) Perfect.

25 PRESIDING JUDGE KORNER: [10:21:44] All right. Just a moment, was -- let me

1 see, was there anything else?

2 MR EDWARDS: [10:21:50] Your Honour, before we move away from --

3 PRESIDING JUDGE KORNER: [10:21:52] Yes.

4 MR EDWARDS: [10:21:53] -- from that expert, in the Prosecution's response to our
5 seeking to have Professor Gout introduced as an expert, they set out their objection,
6 saying: Well, this part of the report seems to fall outwith his expertise and so on.

7 We don't yet have a definitive -- it was phrased in terms of: For example, he doesn't
8 have expertise and it's, for example, he doesn't have expertise in that.

9 So that everyone's minds can be absolutely focused, it would be helpful, I think, if the
10 Prosecution could give us chapter and verse those paragraphs of his expert report
11 which is challenged, or where expertise is challenged, so that we know precisely
12 which paragraphs of his expertise does not pose a problem to the Prosecution.

13 PRESIDING JUDGE KORNER: [10:22:52] But don't they set that out in paragraph 7
14 of their response? They've set out some of the -- well, paragraph 6 is a bit vague,
15 but then in paragraph 7, they set out all the topics and paragraphs.

16 MR EDWARDS: [10:23:10] If that is the sum total of the paragraphs that they have
17 an issue with, then that's of some assistance. But I have to say the way I read it, it
18 was more along the lines of: For example, we take issue with it.

19 I don't have it in front of me, but we just want to have a definitive --

20 PRESIDING JUDGE KORNER: [10:23:26] Yes, all right.

21 MR EDWARDS: [10:23:27] -- and final understanding of exactly where the issue is.

22 PRESIDING JUDGE KORNER: [10:23:31] Well, yes, you are entitled to that, Mr
23 Edwards.

24 Mr Nicholls, if you can do that.

25 MR NICHOLLS: [10:23:37] I don't have it in front of me, unfortunately, your

1 Honour. I think we do make that fairly clear. We've got extensive footnotes in
2 there pointing out the sections. I don't think this is a particularly oblique response
3 and it is fairly clear. They're on notice of the areas and the paragraphs. I can talk to
4 my friend. As I said, I'm afraid I don't have --

5 PRESIDING JUDGE KORNER: [10:24:02] Well, I mean, as I say, what it starts -- the
6 Prosecution says some of the topics -- sorry, what you said in this response was at
7 paragraph 6 -- well, it's: "A." The witness "has no demonstrated expertise to deal
8 with some of the topics [...] in the Report".

9 Then you say:

10 "Some of the topics [...] do not fall within" his expertise. No legal training.

11 And then you go:

12 Furthermore, neither his thesis nor his professional background "demonstrate any
13 expertise to opine on the following topics [...]"

14 And then you set out a list of six with paragraph numbers.

15 And I think what Mr Edwards must be asking is whether that's the six on which you
16 object, if there are any more. I think the answer is, if there are any other specific
17 paragraphs which you object to, you had better let him know.

18 MR NICHOLLS: [10:25:08] We will do that.

19 PRESIDING JUDGE KORNER: [10:25:10] Yes.

20 Okay, that brings me to -- yes, I think the only last thing that I wanted to say was,
21 again, Mr Laucci, in your application to appeal or for reconsideration of dates, I think
22 it was, you said that we got the date -- I got the date wrong when, in the status
23 conference, I said the case would otherwise have started in May. That was the
24 intention because that would have been four months after the close of the Prosecution
25 case, until events in Sudan blew up. It's not that I made a mistake in when we were

1 going to start, but I thought I had just better clarify that, not that I think it's of great
2 importance, but still.

3 All right, if there are no other matters that can be dealt with in open session, then
4 we'll go back into private session for --

5 MR NICHOLLS: [10:26:09] I have just one, your Honour.

6 PRESIDING JUDGE KORNER: [10:26:10] Yes.

7 MR NICHOLLS: [10:26:11] I just wonder if there is an update on the alibi issue,
8 because we still don't have a notice. The filing from 22 June, nearly four months ago,
9 concedes that it's not a proper alibi that complies with the rule. So I just wonder if
10 there is progress on that.

11 I note from reading through the statements provided so far from some of the
12 non-expert fact witnesses, they appear to be dancing around alibi issues in there, and
13 so I'm just asking, since we're starting the trial next week with witnesses, when we'll
14 get an alibi notice.

15 PRESIDING JUDGE KORNER: [10:26:53] Yes. It's mentioned in the opening, isn't
16 it, somewhere? Just a moment.

17 MR LAUCCI: [10:27:06](Interpretation) Yes, in the brief we mentioned that -- a very
18 short answer to it, no, there hasn't been progress taking into account the impossibility
19 of contacting the witness or witnesses who we expect -- or whose evidence we expect,
20 but we continue with our efforts in this regard.

21 PRESIDING JUDGE KORNER: [10:27:26] Yes, I think you refer to witnesses you are
22 still to interview, who will attest to it. So the answer is you haven't got any further
23 details.

24 Yes, all right, then let's go into private session again.

25 MR EDWARDS: [10:27:46] I can just give this update in private session, I think,

1 regarding other expert witnesses, if I may.

2 PRESIDING JUDGE KORNER: [10:27:53] You mean in public -- in open session?

3 MR EDWARDS: [10:27:55] Yes, in open session, that is fine, yes. There were two
4 others, essentially. Fiona Marsh is a handwriting expert. She can be called in the
5 next block, I think probably immediately after Professor Gout.

6 PRESIDING JUDGE KORNER: [10:28:16] Well, the Prosecution was saying that it --
7 You're happy with that?

8 MR NICHOLLS: [10:28:19] We don't think that's a problem.

9 PRESIDING JUDGE KORNER: [10:28:20] Yes.

10 MR NICHOLLS: [10:28:21] We've already started talking to somebody and it's not
11 a problem.

12 MR EDWARDS: [10:28:25] Yes. So we've got her dates to avoid, but the Court will
13 understand she's a busy witness, she's an expert witness in her own jurisdiction and
14 she has her dates to avoid, which mean that if we are to pencil her in, we need to do
15 that as quickly as possible.

16 The Prosecution -- and we have been in regular contact trying to narrow down where
17 the issues are and that will be clarified, I suspect, once they've heard back from their
18 expert.

19 And, if it helps, in chief, I suspect one session, possibly shorter, but if there are going
20 to be -- she's a witness who, my understanding is, prepares a PowerPoint or charts or
21 whatever, in order to explain her conclusions. So if we need to go through her charts,
22 that may take a little bit of time.

23 But having said that, being an expert of her experience -- her great experience, I can
24 imagine I could ask her one or two questions and she'll just essentially give
25 a presentation to the Court without being led by the nose.

1 I don't know if, at this stage, the Prosecution take issue with her being an expert. I
2 would be surprised if they do, but -- or whether really the challenge is simply to the
3 substance and the conclusions. I don't know if that has been --

4 MR NICHOLLS: [10:30:06] No, I don't think so. As we say, we are consulting with
5 somebody -- we've sent the letter of instruction to our expert and we hope to begin
6 talking with her this month and then we will get back on that. I don't think we are
7 going to object to her qualifications.

8 PRESIDING JUDGE KORNER: [10:30:24] No. Well, I mean, I'm aware of Ms
9 Marsh and her expertise. I don't think anybody is going to dispute that she's an
10 expert in her field.

11 MR EDWARDS: [10:30:35] That's reassuring. And then the only other expert was
12 a potential expert on facial recognition, D-31. We are not calling him.

13 PRESIDING JUDGE KORNER: [10:30:45] Right. Well, thank you, that's very
14 helpful, Mr Edwards. Yes. All right, well, let's finally go back into private session
15 for any other matters.

16 (Private session at 10.31 a.m.)

17 THE COURT OFFICER: [10:31:05] We are in private session, Madam President.

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5 (Open session at 10.44 a.m.)

6 THE COURT OFFICER: [10:44:27] We are back in open session, Madam President.

7 PRESIDING JUDGE KORNER: [10:44:30] Yes, thank you very much.

8 All right, well, there's nothing further we can do today in the light of the various

9 witness problems, so we will adjourn until Wednesday morning, 9.30, when we will

10 start with the first of the victims who's going to present their views and concerns.

11 Yes, thank you very much.

12 THE COURT USHER: [10:44:55] All rise.

13 (The hearing ends in open session at 10.44 a.m.)