

1 International Criminal Court
2 Trial Chamber V
3 Situation: Central African Republic II
4 In the case of The Prosecutor v. Alfred Rombhot Yekatom and Patrice-Edouard
5 Ngaïssona - ICC-01/14-01/18
6 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Chang-ho Chung
7 Status Conference - Courtroom 1
8 Thursday, 9 July 2020
9 (The hearing starts in open session at 10.03 a.m.)
10 THE COURT OFFICER: [10:03:54] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING SCHMITT: [10:04:18] Good morning, everyone.
13 I would like to welcome you in the courtroom. The Chamber is glad that we can
14 welcome you in the courtroom and not only virtually via some video links. Except
15 for the accused, I will come back to that.
16 This indicates that we are going slowly, but steadily, back to normal. Contra indicia
17 is this plexiglas in front of us, but I hope that in future status conferences or hearings
18 this will also vanish.
19 Court officer, could you please call the case.
20 THE COURT OFFICER: [10:04:59] Thank you, Mr President.
21 The situation in the Central African Republic II, in the case of The Prosecutor versus
22 Alfred Yekatom and Patrice-Edouard Ngaïssona, case reference ICC-01/14-01/18.
23 For the record, we are in open session.
24 PRESIDING SCHMITT: [10:05:17] Thank you.
25 I would like to ask for the appearances of the parties. We start with the Prosecution.

1 Please, Mr Vanderpuye.

2 MR VANDERPUYE: [10:05:28] Thank you very much. Good morning to you,

3 Mr President, your Honours. Good to see everyone. Today the Office of the

4 Prosecutor is represented by Eric Iverson, seated behind me; and behind him,

5 Yassin Mostfa; I'm Kweku Vanderpuye. Good morning, everyone.

6 PRESIDING SCHMITT: [10:05:43] Thank you.

7 And then Ms Massidda, please.

8 MS MASSIDDA: [10:05:46] Good morning, Mr President, your Honours.

9 For the victims of the other crimes, the team today is composed of myself,

10 Paolina Massidda. The other members of the team, Maître Abdou Dangabo Moussa,

11 Maître Yaré Fall, Maître Marie-Edith Douzima-Lawson, are able to follow this hearing

12 via the transcript live. And my colleague, she will introduce herself, is here with me.

13 Thank you very much.

14 PRESIDING SCHMITT: [10:06:19] Yes, and she will do now, please.

15 MS RABESANDRATANA: (Microphone not activated)

16 PRESIDING SCHMITT: [10:06:30] Microphone, please. It's not a problem. In

17 every case we had until now there was this small problem, so we will -- yes, now.

18 MS RABESANDRATANA: [10:06:40](Interpretation) I do apologise. Good

19 morning, Mr President. Good morning, your Honours. My name is Elisabeth

20 Rabesandratana and I am a Legal Representative of Victims and I practice in France.

21 PRESIDING SCHMITT: [10:06:58] Thank you very much, and the next, on my list at

22 least, is Mr Knoops for the Defence of Mr Ngaïssona.

23 MR KNOOPS: [10:07:08] Good morning, your Honours. I'm today assisted by

24 Ms Antonina Dyk, legal assistant, and Madam Sara Pedroso, case manager on behalf

25 of the team of Mr Ngaïssona. Thank you.

1 PRESIDING SCHMITT: [10:07:21] Mr Knoops, I understand that Mr Ngaïssona has
2 waived his right to be present via video link.

3 MR KNOOPS: [10:07:29] That's more complicated, Mr President.

4 I can, if the Chamber invites me, explain the situation. But in our submission he
5 didn't waive his right to be present.

6 PRESIDING SCHMITT: [10:07:41] So how would you word it, but shortly, please.

7 MR KNOOPS: [10:07:46] Mr Ngaïssona is quite upset by the fact that already for
8 four months he is kept incommunicado from his Defence team, while on 18 June
9 a pedicure came to the detention centre for treatment. Despite several requests, we
10 were not given access to Mr Ngaïssona. He cannot understand why, I cannot
11 explain to him why the measures, despite also the letter of the President of last Friday,
12 which the Chamber is aware of, where the President of the Court insists that this is
13 a really exceptional situation, that the defendant should have a right to prepare the
14 case. All this in cumulation is for him not acceptable.

15 So he didn't waive his right. He principally says: I am not accepting that I cannot
16 be present in this courtroom.

17 And to be honest --

18 PRESIDING SCHMITT: [10:08:43] I think, that's enough, I think, on that. Thank
19 you, Mr Knoops.

20 So we take it that Mr Ngaïssona is represented by you, of course, today. And just
21 one short remark from the side of the Chamber. We all know that these are evolving
22 situations. We have taken note of your submissions about the situation in the
23 Netherlands in detention centres and you, as I'm sure, have noted a paragraph in our
24 last decision where we invite the Registry to also follow up on these matters and to
25 think about loosening these restrictions.

1 So I think this is a problem that will soon be -- will soon disappear, I would say.

2 Thank you very much for the moment.

3 MR KNOOPS: [10:09:30] I would like to also express, it is no disrespect to the judges.

4 It's for him the feeling that he has no -- that his rights to be present have been violated

5 and he lost in this regard confidence in the system and it will take some time for him

6 to get confidence back in this trial. But this is what he also wished me to convey. I

7 speak with him seven days a week, every night, and I can acknowledge to

8 the Chamber that mentally for this person it's really difficult.

9 PRESIDING SCHMITT: [10:10:07] Yes, the Chamber understands that the situation

10 is exceptional and this of course heavy weighs on both accused. But as I said, we are

11 sure that the situation will normalise, this is what I said in the beginning, and

12 the Chamber also takes it positively that you said that from Mr Ngaïssona's

13 perspective this is not conveying disrespect to the Chamber. We take it as that and I

14 think we continue from there.

15 Mr Suprun I think I have forgotten.

16 Please, for the record.

17 MR SUPRUN: [10:10:45](Interpretation) Yes, good morning, Mr President. Good

18 morning, your Honours. The former child soldiers are represented by myself

19 Dmytro Suprun, Legal Representative for Victims. Thank you.

20 PRESIDING SCHMITT: [10:10:59] And now we are coming to the Defence of

21 Mr Yekatom, please.

22 MS DIMITRI: [10:11:04] Good morning, Mr President. Good morning,

23 your Honours. The Defence of Mr Yekatom this morning is represented by

24 Mr Florent Pages-Granier, in the courtroom; Mr Kayrouz Abou Malhab, as well in the

25 courtroom. In the public gallery we have Ms Sabrine Bayssat, Wilhelmina

1 Whittingham, Jean-Michel Kola and Daniela Mvounbou Police. And myself
2 Myléne Dimitri. And we -- although Mr Yekatom would have wished to be present
3 in the courtroom this morning, as you can see, he can appear via video feed.
4 PRESIDING SCHMITT: [10:11:36] Thank you very much. And we also welcome
5 Mr Yekatom from the video link.
6 And then we have for the Registry, please, finally.
7 MR VANAVERBEKE: [10:11:44] Good morning, Mr President, your Honours.
8 Today the Registry is represented by Ms Natacha Schauder, senior manager from the
9 VWS; Ms Soraya Brikci, legal coordinator VPRS; and myself, Pieter Vanaverbeke,
10 head of the Legal Aid Unit, Counsel Support Section.
11 PRESIDING SCHMITT: [10:12:02] And we should not leave this issue of
12 appearances without introducing the judges of this Chamber because we meet for the
13 first time. To my left there is Judge Chang-ho Chung, to my right Judge
14 Péter Kovács, and I am Judge Bertram Schmitt.
15 Today's status conference has been convened to set a date for trial in accordance with
16 Rule 132(1) of the Rules and to discuss the preparation of the trial.
17 We all know that this status conference was ought to take place earlier.
18 The Chamber was also eager to hold the status conference on time and scheduled it
19 for 21 April, but we also all know that because of the measures taken in light of the
20 corona pandemic it was not possible to have the hearing at that time so we are in the
21 situation that we are sitting here later than we would have hoped for as a Chamber.
22 For the information of the public, the Chamber notes also that there are several
23 medical restrictions that apply to today's status conference. In particular,
24 the Chamber notes that at least one accused, Mr Yekatom, is following this hearing
25 via video link from the detention centre for their medical safety. For the same reason,

1 the parties, participants, Registry and Chambers staff appear only with limited teams
2 to reduce these risks.

3 Moreover, the hearing is currently limited in its duration. The status conference will
4 be held in two sessions - I am not sure if that will be enough, but let's see - from 10 to
5 11 and from 11.40 to 12.45. We have the option for another hour. That should not
6 mean that we necessarily have to take it, but we have this option so we have a little bit
7 of leeway in that regard.

8 The Chamber further notes that this status conference is held in open session, unless
9 a request to do otherwise is made by the parties, participants or the Registry. As I
10 see it, most of the status conference can be held in public.

11 Before getting into the details of the agenda items that you are aware of, the Chamber
12 wishes to make some preliminary remarks. First on cooperation, the participants
13 and participants are expected to cooperate with each other wherever possible and to
14 resolve matters inter partes before seizing the Chamber with a request. In the same
15 way, the Chamber expects that issues concerning matters within the Registrar's
16 purview be resolved directly with the Registry and not first go to the Chamber.

17 The Chamber considers this approach to be the most efficient. If a resolution has not
18 been tried inter partes beforehand, the Chamber may dismiss the relief sought
19 *in limine*.

20 The Chamber also expects to receive submissions with a concrete relief. We don't
21 wish to receive notifications which anticipate future requests that, in the end, may or
22 may not come to fruition.

23 The Chamber further expects the parties and participants to give due emphasis to the
24 principle of publicity. In this regard, the Chamber recalls that the accused has
25 a right to a public hearing, according to Article 67(1) of the Statute.

1 That means, whenever confidential submissions are filed, the Chamber expects public
2 redacted versions of these submissions to be filed as expeditiously as possible,
3 preferably on the same day.

4 The participants may reference the contents of confidential filings in public
5 submissions, as long as these references do not reveal the information that gave rise to
6 the confidential classification.

7 Finally, the Chamber stresses that the classification "ex parte" should only be used in
8 exceptional circumstances. Most importantly, it should not be used to gain
9 a procedural advantage by excluding the other party.

10 The Chamber recalls its instructions on communications with the Chamber, sent per
11 email on 26 March 2020. It expects the parties, participants and Registry to follow
12 these instructions throughout the proceedings.

13 The Chamber wishes for the communications with the Chamber to be as transparent
14 as possible. It is therefore crucial that all parties and participants be copied in emails
15 concerning requests to the Chamber, unless there is a good reason not to do so. In
16 this regard, the Chamber also invites everyone again to make use of the existing email
17 groups in order to avoid that relevant team members are omitted.

18 In this context the Chamber also recalls an email of 1 July 2020, that if a party or
19 participant wishes to fully support a motion on the case record, it may do so by email
20 if no substantively new submissions or new requests are made, and if all parties and
21 participants who were privy to the initial motion are copied. In all other cases, the
22 parties and participants are expected to file their views formally on the record.

23 Finally, there is no need to copy the Chamber into inter partes communications.

24 So these were the preliminary remarks, we are now going over to the agenda items.

25 As requested by the Chamber, the parties, participants and the Registry have

1 provided their submissions on several topics in advance of this status conference.

2 These submissions have been very helpful to inform the Chamber of where things
3 stand and to identify potential problems. We appreciate the efforts made by
4 everyone in this regard.

5 As indicated in the second scheduling order, the Chamber considers that it has
6 received sufficient information on a number of items initially listed, which have
7 therefore not been added to today's agenda.

8 The Chamber will address these issues by way of written decisions. This includes,
9 for example, the various protocols and the conduct of proceedings.

10 The first issue that we want to discuss here are the issues relevant to the
11 commencement date of the trial.

12 The Chamber notes that the submissions by the parties, participants and Registry
13 were filed on 8 April 2020. Since then, the circumstances and the measures imposed
14 in response to the coronavirus pandemic have changed several times. I have already
15 mentioned that. And, frankly speaking, hopefully they will soon change again.

16 The Chamber is therefore particularly interested in receiving updates from everyone
17 on the impact on their trial preparation and the status quo, namely disclosure,
18 ongoing investigations, protective measures for witnesses, preparation of a trial brief
19 and witness list.

20 Before we start, I would like to ask you to be as concise as possible - we have -- I said
21 we have time but not so much time - and please not to repeat submissions already
22 made in writing.

23 We are starting with the ongoing investigations, which is the first point we want to
24 hear about.

25 The Prosecution indicated in its 9 April submissions, which are already three months

1 away -- in the past, that investigations were still ongoing but that, due to the
2 coronavirus pandemic, it cannot currently - currently meaning at that time - provide
3 a reliable estimation of an end date. Further, that it will update the Chamber by the
4 month's end. So this would have been April, so I think it is really time to do that.

5 We would like therefore to give the floor to the Prosecution to give us an update on
6 the status of the investigations and anticipated end date of these investigations.

7 Please, Mr Vanderpuye.

8 MR VANDERPUYE: [10:20:40] Thank you, Mr President. And I'll try to be as
9 concise as possible in answering your question.

10 The first thing is where are we in respect of where we were when we made our
11 previous submission? And the answer is essentially exactly where we were when
12 we made our previous submission.

13 As you might imagine, the impact on the potential to investigate or to continue to
14 investigate matters which were already identified before the confirmation decision
15 had been issued and thereafter have come to a complete standstill as a result of the
16 COVID-19 pandemic.

17 The Prosecution has not been able to travel, effectively, has not been able to
18 implement measures with respect to witness protection issues as efficiently as it
19 would otherwise be able to do, and so it's effectively ground the investigation to
20 a halt. There are, as you properly noted, some improvements in the situation, at
21 least in Europe, in terms of the ability or the mobility of the investigation. And to
22 that extent we are making inroads, but that's only just begun with the lifting of
23 restrictions in certain EU countries. But beyond Europe the investigation is
24 effectively stopped. It's not possible to travel to CAR - I'm sure it's not too much
25 different for the deference as well - in order to conduct operations on the ground

1 there with respect to the collection of documentary evidence, which needs to be
2 completed, as well as to interview or re-interview certain witnesses that we've already
3 identified to call in the case.

4 So that's, that's basically it in a nutshell.

5 In terms of what we've been trying to do, I can tell you that the Office has been trying
6 to put together a protocol to conduct remote interviews and it has been applied in
7 some cases with success. It is a bit more difficult to apply that in the Central African
8 Republic because the infrastructure is not as conducive to being able to, to being able
9 to carry out those types of activities.

10 PRESIDING SCHMITT: [10:23:04] Thank you.

11 And I spoke already about the hopefully evolving situation here at the court and at
12 the, and in the host state. What are the prospects? Of course you can't look into the
13 future exactly, but is there some hope for a change of situation?

14 MR VANDERPUYE: [10:23:24] From our information so far, the number of COVID
15 cases is on the rise in the Central African Republic. I think they have cleared now
16 4,000 infections and I can't remember how many deaths, but there have been
17 a number, I say 40 or 50 deaths as a result of that. Our understanding is that that is
18 not expected to peak until October or September coming.

19 The restrictions that remain in place -- the restrictions, rather, that were imposed
20 earlier on in the pandemic largely remain in place. People can circulate with masks
21 and social distancing, and those kinds of measures that have been applied here, but
22 you can imagine how difficult that would be to control in an area which has a limited
23 infrastructure, limited enforcement capacity. And it also would affect staff resources
24 for the Court that are assigned to those locations and we have to look out for their
25 health as well.

1 So it's hard to say when it's likely to improve. But our understanding is that things
2 are getting worse and not better, up at least until September or October when the
3 peak is expected.

4 PRESIDING SCHMITT: [10:24:43] Thank you. This is duly noted.

5 Does the Defence want -- shortly, if you want shortly to comment on that?

6 You need not, you don't have to, let me put it this way, but if you want you have the
7 floor, Mr Knoops.

8 MR KNOOPS: [10:24:58] Thank you, Mr President.

9 Mr President, when we are speaking about preparing the trial, it should be noted that
10 the Prosecution in its investigations already received from the Pre-Trial Chamber, as
11 the Court noted, twice extension of time.

12 Secondly, it admitted that it was surprised by the unexpected speed of the arrest of
13 the two accused persons.

14 We all know, based on the jurisprudence of this Court, that the investigation - I refer
15 to paragraph 119 in the Kenyatta decision of 2013 - that it's the obligation of
16 the Prosecutor to have completed its investigation prior to the confirmation of charges
17 hearing.

18 We all know that there are exceptions, that these exceptions are really strictly
19 circumscribed in the jurisprudence. The pandemic, in other words, can in our
20 submission not be an excuse, although we all fully understand that we are all dealing
21 with, even Defence, cannot be excuse to push back the trial date.

22 Our submission is that the Chamber should no longer fix a trial date depending on
23 the apparent ongoing investigations. It should fix a date as soon as possible,
24 perhaps even by the end of this year. This is the position of our team, our client,
25 who is already almost two years, Mr President, in pretrial detention under harsh

1 conditions, as the Chamber is really aware of, and with due respect for the
2 circumstances in the world it cannot be an excuse to prolong a trial date.

3 The Prosecution had its chance to conclude its investigation prior to the confirmation
4 of charges in accordance with the Kenyatta jurisprudence.

5 Thank you.

6 PRESIDING SCHMITT: [10:27:23] Do you want to add something, Ms Dimitri?

7 MS DIMITRI: [10:27:27] Thank you, Mr President. Just one point. The remaining,
8 the remaining of my submissions are more related to disclosure, which is I think
9 another point on your agenda.

10 My only point, Mr President, is, as my learned friend indicated, investigations should
11 have been largely completed at this stage of confirmation hearing. Mr Yekatom has
12 been in detention for almost two years, so we have to take that into account. Even
13 by April, when at the time the Prosecution made their submissions, investigations
14 should have been largely completed so we can move on with this case.

15 Thank you, Mr President.

16 PRESIDING SCHMITT: [10:28:03] Thank you.

17 The Chamber is aware and recalls -- aware of and recalls the Appeals Chamber
18 jurisprudence that indeed investigations should largely be completed at the stage of
19 the confirmation of charges hearing, and the Chamber agrees with that view.

20 The Chamber also recalls Pre-Trial Chamber II's finding in this regard in the present
21 case. And while the Chamber will therefore take the Prosecution's submissions into
22 consideration, it likes to stress that the ongoing investigations will not be the
23 determinative factor in setting disclosure deadlines and a date to commence the trial.
24 You have already flagged, Ms Dimitri, disclosure is the next point and a very big
25 point I think, and we will be starting with the ongoing disclosure obligations, in

1 particular timing and volume of outstanding disclosure.

2 The Chamber will set a final disclosure deadline in due course. In the meantime,

3 the Chamber recalls the Prosecution's - and you know that of course,

4 Mr Vanderpuye - rolling disclosure obligations and emphasis that -- emphasises that

5 disclosure must be affected as soon as possible.

6 Furthermore, and again I come back to that what I mentioned at the beginning,

7 the Chamber stresses that it expects the parties to resolve disclosure issues

8 inter partes whenever possible. Of course, you might go to the Chamber if there is

9 disagreement, but you should really -- the parties should really strive to resolve these

10 issues inter partes.

11 In its submission 474 the Prosecution indicated that it has disclosed 86 per cent of the

12 evidence that it originally - that means before the coronavirus pandemic - anticipated

13 finishing its disclosure by mid-fall.

14 The Chamber considers of course, with this information in mind, that it would be

15 assisted by receiving an update on both the status quo of disclosure as well as the

16 anticipated date of full disclosure.

17 I give again Mr Vanderpuye the floor.

18 MR VANDERPUYE: [10:30:19] Thank you, Mr President.

19 If I could just return to the previous issue for just a second, if that's all right.

20 PRESIDING SCHMITT: [10:30:30] That's fine.

21 MR VANDERPUYE: [10:30:31] Thank you.

22 PRESIDING SCHMITT: [10:30:31] It seems to be related, so why should I deny it?

23 MR VANDERPUYE: [10:30:35] Thank you. That's very much appreciated.

24 With respect to the ongoing investigation I just wanted to point out a couple of things:

25 First of all, I agree completely with the Chamber, the team agrees completely with

1 the Chamber, that that is not a dispositive issue with respect to the setting of a trial
2 date. But we feel it's important to bring the circumstances to the attention of
3 the Chamber so the Chamber is perfectly clear and we are transparent about where
4 we are, where we want to be, where we expected to be, but what the impediments are
5 and what we're trying to do to resolve them. So that's the first thing.

6 The second thing is, as the Chamber is aware, and I think the Defence is aware, pretty
7 much everyone is aware, that the investigation in this situation involves a parallel
8 investigation. And to the extent that there is a parallel investigation into Seleka
9 crimes, there is obviously the possibility that information that is received in relation to
10 that investigation will have an impact on this case. Because we have warring parties,
11 we have an armed conflict which involves the two groups, clearly an investigation
12 into one --

13 PRESIDING SCHMITT: [10:31:41] It might very well be exonerating evidence.

14 MR VANDERPUYE: [10:31:44] It could be exonerating and it could be, and it could
15 be incriminating, but the point is that it's ongoing. And that is a part of the
16 investigative activities that are related to this case even if it's not about this case.

17 The second thing is, with respect to the investigation, my understanding actually of
18 the Appeals Chamber's jurisprudence is that it is the exceptional circumstance where
19 a Chamber should intercede to stop an investigation, not the other way around.

20 And I think Mr Knoops has got that a bit backwards. It is the exceptional
21 circumstances which authorises the Chamber to stop an investigation, not the other
22 way around, and I think that's quite clear in our jurisprudence.

23 The third thing is, in respect of the investigation into -- of these specific accused, it's
24 important to bear in mind that they are charged obviously with individual criminal
25 responsibility for the charges that were confirmed, but those charges were confirmed

1 in the context of group crimes. And so the investigation as respect to members of
2 that group should not be stopped by virtue of the fact that there is a trial against two
3 members of that group, because our obligation under the Statute pursuant to
4 Article 54 and in accordance with the mandate the Chamber -- of the Court is to
5 investigate those individuals who are most responsible for the crimes within the
6 context or the framework of the situation in this case. These are but two of them.
7 And we have said repeatedly, and in the confirmation process itself, that there are
8 many individuals who are responsible for the crimes that occurred in this -- that are
9 the subject matter of this case and that are the subject matter of other matters that
10 we're investigating. So that I just wanted to lay out so the Chamber is aware of what
11 we're talking about when we're talking about ongoing investigations.
12 And the last point is that we are following up on investigations that were begun long
13 before the confirmation decision was issued, because that is the nature of the -- that is
14 the manner in which cooperation efforts proceed. You would be aware of the
15 motion that we filed to amend the charges with respect to both of these individuals,
16 and you will be aware that the efforts to investigate the crimes which were the subject
17 of those amendment applications began in April, May and June of last year. And it
18 was only recently that those -- that that investigation was actually able to come to
19 fruition, because of the nature of cooperation efforts. And that's the reason I wanted
20 to lay that out.

21 PRESIDING SCHMITT: [10:34:33] But please now to the actual status quo of
22 disclosure.

23 MR VANDERPUYE: [10:34:37] Yes, yes. I'm sorry about that. I just thought I
24 (Overlapping speakers)

25 MR KNOOPS: [10:34:40] (Overlapping speakers)

1 PRESIDING SCHMITT: [10:34:40] Mr Knoops, please let Mr Vanderpuye talk now.

2 MR VANDERPUYE: [10:34:42] With respect to the state of disclosure, Mr President,
3 the first thing is, I believe in our prior submission we had indicated that we had
4 reviewed about 86 per cent of the collection. Obviously the collection is a moving
5 target because of the nature of the -- because of the nature of collateral investigations
6 or related investigations. It's one pool of information. So to the extent that
7 information is gathered in respect of a different investigation, it still falls into the pool
8 to be reviewed in this case.

9 That said, we indicated back then that we had about 10,000 items that needed to still
10 be assessed. And what I can tell you is that we are down now to about 2,500 items
11 that still need to be assessed. And by assessment, what that means is first of all
12 identifying basically what box this material goes into. There are different phases of
13 review, as you can imagine, the first is when you have a bunch of information, well,
14 what are they? Are they bills or are they letters? Are they, you know, are they
15 magazines? This basic sort of assessment still has to be done with respect to 2,500
16 documents. Once that is done and we expect that we are on target to meet the
17 disclosure deadline, the disclosure deadline that we indicated previously, but we still
18 have overall number of documents to assess of about 23,000. And that's quite a lot of
19 material to get through between now and mid-fall. So that's basically where we are
20 and we still think we're on target. We have galvanised other resources from other
21 teams in order to help our team get through this volume of information in that
22 amount of time. So I think we indicated before mid-fall and I think that's probably
23 right. My estimation would be probably mid to end of November.

24 PRESIDING SCHMITT: [10:36:43] Thank you. We will come to the specifics soon.
25 Just one short remark, perhaps, which would make Mr Knoops' intervention obsolete,

1 I don't know.

2 Of course, we understand that there are ongoing investigations, that there is
3 another - now in brackets - another party also there that they are going to -- they are
4 investigating. But that at some point in time has to be separated from the question if
5 evidence that evolves from such investigations can be used against these accused here.
6 So that that's a different point we have, that's not the same.

7 Mr Knoops, did you want to comment shortly on that?

8 MR KNOOPS: [10:37:28] Yes, if I may, Mr President. Thank you.

9 Mr President, your Honours, we are now nine months, nine months after the
10 confirmation of charges hearing, the Prosecution still says it needs time because there
11 is a parallel investigation into the Seleka.

12 In the case which was before this Chamber a few years ago there was a similar
13 situation, the case of Côte d'Ivoire. The former president of Côte d'Ivoire,
14 Mr Gbagbo, and one of his former ministers, Charles Blé Goudé, were tried before
15 this Court and there there was a parallel situation into the supporters, alleged
16 supporters of the other presidential candidate who was ultimately elected. That
17 didn't prevent the Chamber to commence the trial, not at all.

18 If during that investigation into the Seleka formations exculpatory evidence arises, no
19 problem, it can be submitted every time. But that does not prevent us from starting
20 this case. It cannot be so that the Prosecution nine months after the confirmation of
21 charges still gets time because it conducts a parallel investigation. It's about the
22 charges which were confirmed by the Pre-Trial Chamber.

23 And, Mr President, that brings me to a second point, the jurisprudence of Kenyatta is
24 not the reverse situation as reported by OTP. If you read paragraph 121 of the
25 decision of 2013, it's clearly that the Chamber said, the majority of the

1 Appeals Chamber, the Prosecution has the obligation to finish his investigation before
2 the confirmation, but only in an exceptional situation, if he can prove that that
3 evidence was not reasonably obtained with due diligence before the confirmation.

4 That's different. So the citation we gave is not a reverse situation.

5 And finally, Mr President, the amendment of the charges, that doesn't justify either an
6 ongoing investigation. The Pre-Trial Chamber denied, in firm words, the suggested
7 amendment. That means the investigation, the Prosecution is asking for this, can
8 immediately be stopped because there is no amendment of the charges.

9 And finally, Mr President, the disclosures. We ask the Chamber and I believe you,
10 Mr President, you just suggested it yourself on behalf of the Judges, that we suggest
11 the Chamber to set indeed a calendar for disclosure.

12 PRESIDING SCHMITT: [10:40:44] We are coming to that.

13 MR KNOOPS: Yes, okay.

14 PRESIDING SCHMITT: [10:40:46] So you can defer that. I think it might not be
15 necessary then to come back to it.

16 Thank you very much for these submissions. You can be sure that the Chamber is
17 aware of the Appeals Chamber's jurisprudence in that regard and also aware of how
18 to interpret it.

19 We come now -- we are coming now to the disclosure of witness identities, more
20 specifically, that are or have been withheld from the Defence, and to the correlating
21 issue of protective measures. There are, as it seems, different areas that we would
22 have to -- want to receive information.

23 As regards witness identities, the Chamber notes that according to Prosecution filing
24 474 only one incriminating witness identity has been withheld and disclosure is
25 expected in the near future. Second area is, the Prosecution indicated that it does not

1 intend to call at trial CAR witnesses whose identities the PTC authorised to redact
2 and expects these redactions to remain as long as necessary to protect the Seleka
3 investigations. Here is again the Seleka investigation comes into perspective.
4 Thirdly, according to the Prosecution's more recent filing 553, the individual risk
5 assessments for a handful of witnesses, as it is worded, on the preliminary witness list
6 are pending and disclosure has thus not yet been affected. Furthermore, this process
7 is expected to be completed before the judicial summer recess. The Chamber notes
8 that this list includes 11 witnesses whose identities are redacted and are unknown to
9 the Defence at this point. And we are well -- 11 is already a bit more than a handful.
10 The Chamber also notes the Prosecution submissions with regard to pending and
11 anticipated requests for protective measures.
12 Again, noting the elapsed time since the submissions to the status conference were
13 filed, the Chamber would like to hear from Mr Vanderpuye about how many
14 identities are in fact -- first, how many identities are in fact unknown to the Defence at
15 this point, first.
16 Second, the status of pending individual risk assessments, as well as anticipated
17 requests for protective measures. And related to that, when witness identities can be
18 disclosed to the Defence.
19 And thirdly, the relevance and impact of the Seleka investigation to disclosure in the
20 present proceedings. You have touched already this point so you can mainly speak
21 to us to the first two points: How many identities unknown and status of pending
22 individual risk assessment.
23 Please, Mr Vanderpuye.
24 MR VANDERPUYE: [10:43:42] Thank you, Mr President.
25 All right, with respect to the number of witnesses that remain to be disclosed to

1 the Defence, I think we're now down to six, which I think is not too bad.
2 Two have been referred to the VWS and so they are processing those referrals. There
3 is one additional one for which the finalisation of security assessments and the
4 implementation of the appropriate measures, that we'll be in a position to disclose this
5 person, but it will depend on how the pandemic, the course of the pandemic in the
6 CAR. Two witnesses are not reachable. And then there is one other witness, the
7 circumstances of which I would have to discuss with the Chamber on an ex parte
8 basis.

9 So that's the status of the six, I think. And I should commend our protection
10 strategies unit, which has done really an exemplary job in organising and making
11 sure that our witnesses are protected. As the Chamber is aware, we have
12 preliminarily identified 152 witnesses, plus some experts that we will call, so I think
13 relatively speaking we're in good shape.

14 PRESIDING SCHMITT: [10:45:18] Thank you.

15 We would like to have information, if you have it, from the VWU in that regard, if
16 you can give us an update.

17 Ms Schauder, please.

18 MS SCHAUDER: [10:45:34] Thank you, Mr President.

19 Indeed, the VWS is still in the process of assessing or finalising the assessment of
20 three witnesses. Most of the witnesses that has been referred were dealt with much
21 in advance, so at the moment we are down to three assessments to be conducted and
22 measures to be implemented.

23 PRESIDING SCHMITT: [10:46:03] And do you have any --

24 MS SCHAUDER: [10:46:06] I'm sorry.

25 PRESIDING SCHMITT: [10:46:07] Yes, do you have any idea when this process will

1 be completed?

2 MS SCHAUDER: [10:46:14] As mentioned already by our colleague from
3 the Prosecution, we are very much in the hand of the possibility or the reduced
4 possibility that we have to operate in the Central African Republic, and social
5 distancing and the measures that are preventing us to meet with witnesses in order to
6 assess them, then to implement measures.

7 We are making plans at the moment, together as well with the medical officer of the
8 Court, to see what would be possible in that respect.

9 PRESIDING SCHMITT: [10:46:48] Thank you.

10 Any submissions by the Defence? Yes, please, Ms Dimitri.

11 MS DIMITRI: [10:46:55] If I may, Mr President, thank you.

12 I apologise, I think I'm a bit lost with the numbers. According to my assessment, 11
13 witnesses were unknown by the Defence, were redacted. One of them, P-1792, we
14 now know his identity, we only have a summary, we are still waiting to receive his
15 statement.

16 And according to again, if my memory serves me right, P-1442, yes, P-1442, who was
17 initially redacted and unknown to the Defence has been cleared and disclosed, which
18 brings the number, according to my count, to nine. There's still nine remaining
19 witnesses whose identities are unknown from the Defence.

20 PRESIDING SCHMITT: [10:47:44] Nine seems to be three more than six. So
21 perhaps this discrepancy can be solved by Mr Vanderpuye. Or perhaps not, I don't
22 know.

23 MR VANDERPUYE: [10:47:56] I would err on the side of not, at least not on my feet.
24 I'll look into it and we can solve this, I think.

25 I should add that there are some matters of disclosure that are in the pipeline and so it

1 may very well be that the numbers are right but the matter is in, actually in the course
2 of being disclosed or that information is being shared.

3 We have a couple of disclosure packages that were slated to go out yesterday I think,
4 or the day before. So in that respect there was a technical problem and it didn't go
5 out. So it may very well be that this information is on its way. I'll discuss it with
6 counsel and get back to the Court, if you would prefer.

7 PRESIDING SCHMITT: [10:48:39] Thank you. I think that that should do for this
8 item.

9 The next item, and I think this is the last one that we can discuss before the break, is
10 the trial brief. The Chamber considers a trial brief to be a useful tool for the
11 preparation of the trial to everybody, all parties, participants, and of course also
12 the Chamber. The Chamber equally considers a provisional list of witnesses, a list of
13 evidence and summaries of the anticipated evidence, testimony of the witnesses to be
14 useful.

15 As regards the provisional witness list, the Chamber recalls that the Prosecution has
16 already filed a preliminary witness list on 15 June 2020. We will discuss this later on
17 in more detail. This list, which is a novelty at the Court, has been ordered by
18 the Chamber in light of the specific circumstances under the coronavirus pandemic.
19 The list was considered necessary in the present circumstances to ensure the accused's
20 right to a fair and expeditious trial and to have adequate time to prepare their defence
21 as well as to mitigate the delays that unfortunately have been caused by the
22 coronavirus pandemic.

23 Now that the case is moving forward, the Chamber considers that in line with the
24 practice of the Court, a provisional, not preliminary, provisional witness list should
25 be provided. Only minor changes will be possible to this list. Major changes

1 should be limited to instances where a concrete justification exists.

2 In terms of timeline, the Chamber notes the Prosecution's submission that it is
3 prepared to submit a trial brief 30 days before the start of the trial.

4 We would like to hear from the Prosecution again first by what time it would be able
5 to provide the already mentioned provisional witness list, a list of evidence and
6 summaries of the anticipated testimony of the witnesses.

7 Yes, you know, Mr Vanderpuye, you are really on the spot today, so -- but because it
8 largely depends on what you are saying and how we assess this, so to speak, how the
9 case is going forward.

10 So please, you have the floor again.

11 MR VANDERPUYE: [10:50:55] Thank you very much, Mr President.

12 Indeed, we did indicate that we would prefer to file a pretrial brief some 30 days
13 before the start of trial. And you're right, it is a novelty to have provided
14 a preliminary witness list, it's the first I think it's been done. And I think it is a good
15 idea. It does enable the Defence to get their head around what the scope of the case
16 is and where we are going in terms of the evidence that we intend to produce.

17 The question of a provisional list is a different one though. Normatively that would
18 accompany the list of evidence and, in our view, that should follow the disclosure or
19 the completion of disclosure in the case, which I indicated already was what we're
20 looking at in terms of timelines is mid-fall.

21 So what I would propose is, and I think it is quite the norm at the Court, is to provide
22 the -- provide the provisional witness list and the list of evidence 90 days before the
23 start of trial, the pretrial brief 30 days before the start of trial, together with the
24 witness summaries.

25 So it would be list of evidence 90 days before, witness list 90 days before, witness

1 summaries 30 days before, and the pretrial brief 30 days before. With respect to the
2 30 days before, what I mean there is at the latest 30 days before. So our objective
3 would be try to provide it sooner, but I think, I think that the workload that is going
4 to go into preparing a case as large as this one, I would prefer to have the deadlines
5 staggered, which I think would be more conducive to an efficient presentation of the
6 case.

7 That's the idea. I hope I have answered your question, I tend to --

8 PRESIDING SCHMITT: [10:53:11] No, no, you have. You were very specific, I
9 would say even. There might be the urge, so to speak, by Defence counsel to
10 comment on that. But if not, of course, we would also accept it.

11 Then first, whoever wants to speak first, please confer with yourself.

12 MS DIMITRI: [10:53:29] Thank you, Mr President.

13 I might be -- I might be long on this point because I -- it spills over with disclosure,
14 remaining disclosure, so I'm in your hands. I can address this after the break, or
15 maybe Mr Knoops can speak first and I can go ahead after the break.

16 PRESIDING SCHMITT: [10:53:49] We can continue a little bit further than 11 o'clock.
17 So the maximum, as I have been informed, 10 minutes. So we would have the
18 maximum until 10 past 11, so I think we can have both your submissions during that
19 time period. Please start. And you know, of course, you have to leave Mr Knoops
20 a couple of minutes.

21 MR KNOOPS: [10:54:10] Thank you, Mr President.

22 Also, our Defence team believe that this topic, the providance of a provisional witness
23 list comes closely with the disclosure obligations. I will be brief and Ms Dimitri can
24 address it after the break in a more extensive manner.

25 In light of the disclosure conduct of the Prosecution in the past, and I don't have to

1 remind the Chamber to your ruling of 15 June of this year with respect to a specific
2 witness, paragraph 31 and 29, this was your Honour yourself who ruled in this matter.
3 And also the findings of the Pre-Trial Chamber, I have the dates here,
4 3 September 2019 and 11 December 2019, where the Pre-Trial Chamber II concluded
5 that the Prosecution failed to fully discharge its obligation to disclose exculpatory
6 information.

7 We submit that the Chamber should fix a clear deadline for all disclosure obligations
8 of the Prosecution and not leave this anymore in the hands of the Prosecution. It's
9 suggested that it should be -- have the discretionary power in good faith to disclose,
10 but unfortunately the history of this case has provided us with contraindications to
11 this.

12 So our primary request to the Chamber is to set a deadline for all disclosures which
13 are imminent for the trial. That's first.

14 Secondly, the providance of a provisional witness list. It was your Honour yourself
15 who decided, and I have the reference here.

16 PRESIDING SCHMITT: [10:56:13] Please simply cite it, if you want to, so we know
17 what we (Overlapping speakers)

18 MR KNOOPS: [10:56:18] Yes, it was the order to provide a preliminary witness list
19 of 22 May, paragraph 5, where the Chamber ruled that disclosure of evidence related
20 to witness listed on the preliminary witness list must be effected immediately.

21 So there is already a ruling of the Chamber to this effect, and we emphasise that in
22 light of this existing order, the providance of this preliminary witness list should be
23 effected immediately.

24 Secondly, with respect to the trial brief, in line with practice before this Court,
25 providance of a trial brief 30 days in advance of trial is not the common term and not

1 the common time frame for disclosure of the trial brief.

2 There is no jurisprudence the Prosecution relies on to say that in this situation the
3 providance of a trial brief, should the term to provide it, should be shortened to
4 30 days. In our submission, that's really too short before the trial.

5 Secondly, the Pre-Trial Chamber considerably reduced the scope of the charges. We
6 will speak about this I guess after the break. The Prosecution didn't seek leave to
7 appeal that decision of the Pre-Trial Chamber and it's our submission that, in light of
8 the significantly reduced scope of the charges in the case of Mr Patrice Ngaïssona,
9 that the trial brief should also reflect this scope and therefore a time frame of 90 days
10 before trial of a trial brief is quite reasonable.

11 Thank you.

12 PRESIDING SCHMITT: [10:58:19] Thank you.

13 Ms Dimitri, if you can make it in 10 minutes I would give you the floor, and I think
14 that should be possible.

15 MS DIMITRI: [10:58:26] Thank you, Mr President. Indeed, I can.

16 So I would like to support Mr Knoops' observations and submissions. We would
17 like the Chamber to order a disclosure deadline. Indeed in your 22 May decision,
18 the Chamber stressed that the disclosure of evidence related to the witnesses listed on
19 the preliminary witness list must be effected immediately. Disclosure obligations
20 should therefore have been fully met, with each witness appearing on
21 the Prosecution's preliminary list by 15 June when the Prosecution filed its
22 prosecution submission in compliance of the Single Judge's order to provide
23 a preliminary list.

24 The Prosecution had about one month to prepare the requested material for each
25 witness in order to disclose immediately the evidence related to those witnesses,

1 those listed on the preliminary list.

2 Almost two months later, today, the Prosecution still hasn't fulfilled its disclosure
3 obligations in relation to those witnesses appearing on its preliminary list. While
4 they may have dropped 53 witnesses on which the Defence had already spent a lot of
5 time preparing, some of those, for some of those witnesses, we now have a new
6 witness list with 51 new witnesses appearing on the preliminary list at this late stage.
7 So if the Defence wants to be in a position to meaningfully prepare, disclosure has to
8 be complete and it has to be complete immediately in relation to those witnesses as
9 ordered by your Honours.

10 In addition to annexes those witnesses discuss in their statements or previous
11 screening notes or interview note, the Defence is also missing the statements of 30
12 witnesses appearing on the preliminary list of witness, despite your order that
13 evidence related to those witnesses must be effected immediately.

14 We -- and I'm raising this issue, Mr President, because we've already raised it with
15 the Prosecution, we sent an inter partes correspondence on 17 June, and
16 the Prosecution responded that it's a long process and it cannot be affected
17 immediately due to the redaction protocol and the eCourt protocol. So we would
18 like the Chamber to set a disclosure deadline. And we greatly appreciate
19 the Chamber's assurance of the order to provide the preliminary list on the order of
20 22 May, the Prosecution filed a comprehensive list and it enabled the Defence to
21 immediately start reviewing the newly disclosed witnesses and start preparation, but
22 we are also mindful that when the Chamber issues order with firm deadlines it's more
23 persuasive. So out of the 30 witnesses for which the Defence has not received any
24 statement whatsoever, 20 of them have already been cleared, according to
25 the Prosecution's preliminary list of witnesses. So in our view there is no valid

1 reason why the Prosecution has been withholding those statements past the 15 June
2 deadline.

3 Some of those statements have been in the Prosecution's possession since
4 November 2017, when you look at the metadata. And I'm referring more specifically
5 to Witness 1792. Some of those statements which we still do not have but some
6 annexes were disclosed, so with the metadata we're able to see since when they are in
7 the possession of the Prosecution, we have P-2587 who probably made a statement
8 around 31 October 2019, P-0992 who probably made a statement around 14 May 2019,
9 same with P-2377. We have, according to the metadata again, P-2352 who met with
10 the Prosecution on 12 March 2019 and for whom we still don't have a statement.
11 And P-1721 who met with the Prosecution, according to the metadata, on
12 13 September 2017.

13 So in addition to the witnesses who were not cleared according to the Prosecution's
14 preliminary list, some of them, as I said earlier, are already in the process of being
15 cleared and we heard submissions earlier on that. So those who have been cleared in
16 the meantime, their statements should also be disclosed immediately as set out by, by
17 your Honours in the order.

18 So this means that the Prosecution can make efforts clearing the remaining witnesses
19 appearing on their list, and fulfil their disclosure obligation immediately in relation to
20 the witnesses who were cleared and who are appearing on the preliminary witness
21 list. So for those reasons we are asking the Chamber, in order for the Defence to
22 meaningfully prepare, to order now a disclosure deadline earlier than November.

23 And we are also asking your Honours to have a strict deadline for the Prosecution to
24 comply with in relation to evidence related to the witnesses appearing on the
25 preliminary list of witnesses.

1 MR KNOOPS: [11:04:07] Mr President may I just add, one second, this argument is
2 very important.

3 PRESIDING SCHMITT: [11:04:10] Very shortly, please.

4 MR KNOOPS: [11:04:12] Yeah, one second.

5 Maybe the Court is not aware, but your order of your Honours, your order 15 June,
6 the -- in this specific -- I will not mention the P number, but your Honours know
7 which decision I refer to, the disclosure of a certain witness which credibility was at
8 stake. Last Friday the Defence received the disclosure package pertaining to your
9 order of 15 June and these discussions this disclosure were initiated in August 2019.
10 It's from the history of the case and you find it in the decision. So it took
11 the Prosecution 11 months to provide the material which was already acknowledged
12 by the Pre-Trial Chamber. Therefore, this is an additional argument to say to
13 the Court, please set a firm disclosure deadline.

14 Thank you.

15 PRESIDING SCHMITT: [11:05:04] Thank you very much.

16 So I really -- when I hear that, your submissions, I want to recall what the Chamber
17 said initially at the beginning of this status conference, that nevertheless what has
18 been in past, the Chamber expects in principle that also disclosure issues have to be
19 resolved inter partes first. That has, at least has to be tried to resolve this inter partes,
20 and the Chamber expect efforts from all parties and also participants in that regard.
21 Nevertheless, the Chamber will issue of course a decision on the schedule leading up
22 to the trial in due course which will set the commencement date of trial, as well as
23 deadlines for disclosure, the provision of a trial brief and other documents.
24 So I think we have now overstepped only a couple of minutes. I have been told that
25 the break has to be 45 minutes, so we reconvene at 10 to 12.

1 THE COURT OFFICER: [11:06:14] All rise.

2 (Recess taken at 11.06 a.m.)

3 (Upon resuming in open session at 11.52 a.m.)

4 THE COURT USHER: [11:52:03] All rise.

5 PRESIDING JUDGE SCHMITT: [11:52:25] We would shortly come back to what has
6 been said before the break. And we appreciated that Ms Dimitri was very specific in
7 her submissions. And this also means since you were so specific that the addressee
8 of the specifics was the Prosecution of course. And as I said, and I reiterate that the
9 Chamber would appreciate it if these matters, since they are at least presented in such
10 detail, should be resolved inter partes as quick as possible.

11 The next issue on the agenda is the anticipated evidence and we start with the
12 estimated number of witnesses.

13 The Chamber recalls that according to the recent filing by the Prosecution, the
14 Prosecution intends to call 152 witnesses, excluding expert witnesses; 90 concerning
15 Mr Ngaïssona, 62 concerning Mr Yekatom. And amongst these, 109 witnesses are
16 envisaged to give live testimony and 33 witnesses Rule 68(2)(b).

17 The Prosecution further submits that it has eliminated 53 incriminating witnesses - we
18 have heard about that before today - it previously relied upon during the
19 confirmation of charges decision -- proceedings, excuse me, and this in light of the
20 reduced scope of charges.

21 The Chamber also notes the Ngaïssona Defence's observations on this matter,
22 Mr Knoops.

23 We have a few preliminary remarks before we give you the floor, Mr Vanderpuye.

24 First, the Chamber finds the numbers of witnesses to be rather high. Should the list
25 stay as it is, the Chamber reserves its right to limit the number of witnesses or impose

1 a maximum amount of hours available to the Prosecution to present its case if the
2 Chamber thinks this is required to ensure the efficiency of the proceedings and the
3 accused's right to be tried without undue delay.

4 Second, the Chamber finds the separation between witnesses for Mr Ngaïssona and
5 for Mr Yekatom a little bit unusual in light of the joint nature of the case as this seems
6 to suggest that there is no overlap in the evidence. Perhaps there might be more
7 overlap than at the moment we think of.

8 Consequently, we would like to receive further submissions from you,
9 Mr Vanderpuye, on the following matters:

10 Whether the Prosecution expects the provisional and final witness list to be more
11 limited.

12 Secondly, whether there are overlaps in the evidence between the two accused which
13 could perhaps lead to further limitations.

14 And thirdly, we would like to hear how many witnesses are expected to testify at the
15 seat of the Court or via audio-video link.

16 Of course presumably this will depend on how the present situation evolves. The
17 Chamber would be grateful for some first estimates.

18 Mr Vanderpuye, please, you have the floor.

19 MR VANDERPUYE: [11:55:46] Thank you, Mr President. I appreciate your
20 observation and attention to our previous filing concerning the number of witnesses
21 that we have in this case.

22 Yes, it indeed is the case that the Prosecution has removed some 53 witnesses on the
23 heels of the confirmation decision which declined to confirm charges against

24 Mr Ngaïssona for a number of crimes committed by the Anti-Balaka in the provinces
25 in western CAR.

1 But I think it's also important to remember that the confirmation decision effectively
2 shifted the focus of the crimes as were alleged in the DCC to a period preceding the
3 5 December attack much more so than the Prosecution had presented it in its DCC.
4 The DCC focused on crimes that were committed after Ngaïssona became the national
5 coordinator for the Anti-Balaka on 14 January 2014. The confirmation decision
6 effectively shifted the focus of Mr Ngaïssona's responsibility for the crimes which
7 occurred preceding the 5 December attack in 2013. And so --

8 THE INTERPRETER: [11:57:12] Message from the English booth: Could counsel
9 please slow down for the purposes of interpretation. Thank you.

10 PRESIDING JUDGE SCHMITT: [11:57:19] I have also been already admonished,
11 Mr Vanderpuye, for speaking --

12 MR VANDERPUYE: It's not just me.

13 PRESIDING JUDGE SCHMITT: Oh, no, it's not just you. Let me put it this way:
14 In this at least you are not alone.

15 MR VANDERPUYE: [11:57:27] Thank you very much, Mr President. I appreciate
16 that vote of solidarity.

17 So the confirmation decision effectively shifted the focus of Mr Ngaïssona's criminal
18 responsibility or liability to a period which preceded the 5 December attack and then
19 attached also liability to the crimes of Mr Yekatom which followed it.

20 That has the effect of changing the focus of Prosecution witnesses from the period
21 following his designation as the leader of the group to the period of time preceding it
22 and that is what the shift is that -- as identified by Yekatom's Defence counsel as
23 dropping 53 witnesses and adding other witnesses which we already had.

24 So that explains the scope of the -- or the number of witnesses. And indeed there are
25 experts that we intend to call as well.

1 PRESIDING JUDGE SCHMITT: [11:58:30] Just, I don't want to interrupt you, but
2 simply to flag it, we are coming to expert witnesses or --

3 MR VANDERPUYE: Okay.

4 PRESIDING JUDGE SCHMITT: -- experts, as we would say in Germany, not
5 witnesses, but we come to that later.

6 MR VANDERPUYE: [11:58:41] All right. So we have a number of experts that we
7 intend to call as well.

8 And indeed you're correct in your observation, there is an overlap in the number of
9 witnesses, but that's actually accounted for. We wanted to sort of give the Chamber
10 an idea of roughly how we're viewing the evidence or the relevance of the evidence
11 with respect to each accused. As you will recall from the confirmation decision,
12 Mr Yekatom is much more hands on in relation to the crimes with which he is
13 charged than Mr Ngaïssona is.

14 Mr Yekatom is charged as a principal in the commission of those crimes;

15 Mr Ngaïssona is charged as an accessory. And so the number of witnesses that
16 relate to Mr Yekatom's involvement in the commission of the crimes is fundamentally
17 different because the nature of his involvement is also different than Mr Ngaïssona.
18 So we wanted to give you an idea of how that splits. There is undoubtedly an
19 overlap because they're both members of the same group, because they're in contact
20 with one another, because members of their circle are together, and all of those kinds
21 of things, and the crimes form part of a wider pattern of crimes that are committed by
22 the group in general. So there is clearly a fair amount of overlap, but that is
23 accounted for in what we've done.

24 So in terms of the numbers of witnesses, okay, I think we have identified around -- if
25 you just bear with me one second, I'm sorry.

1 The majority of witnesses I think we had hoped to call live. Obviously that is going
2 to be subject to logistical constraints, not the least of which is of course the ongoing
3 pandemic. We've identified about 33 witnesses that we could call through
4 audiovisual link. Many more we would hope to call live, and particularly insider
5 witnesses, of which we have quite a substantial number. So I don't know if I have
6 the total here. But in any event, it's roughly that.

7 We also intended to call 48 witnesses through Rule 68(2) and to that extent we think
8 that would be appropriate here where we have witnesses that aren't talking
9 necessarily about the acts and conduct of the accused but perhaps the acts and
10 conduct of the group, the acts and conduct of the subordinates of the accused,
11 contextual elements, crime base or victim centric evidence as well. So we think
12 there's a fair number we can cover that way as well.

13 So then we're looking at about, I think about 70, 70 some-odd witnesses to call fully
14 live if we can get them here. But like I said, that number is likely going to change.

15 PRESIDING JUDGE SCHMITT: [12:02:02] And the question of audio-video link?

16 MR VANDERPUYE: [12:02:07] Audio-visual link I think around 33 or 34, something
17 like this, we anticipate we could call.

18 PRESIDING JUDGE SCHMITT: [12:02:13] Thank you very much.

19 Any comments by the Defence to that? But please no repetition because there have
20 been some submissions already, and as you have heard in my introduction to this
21 issue, we are aware of that. Please no repetition.

22 But of course, Mr Knoops, you can cover it if you want.

23 MR KNOOPS: [12:02:31] Thank you, Mr President. Of course we only respond to
24 the Prosecution submissions in this regard.

25 For this subject I have speaking notes for the booth. It starts at page 13 for the

1 translation.

2 I'll first address the impact of the reduced scope of the charges, not in detail of course,
3 like you said, but I will just briefly touch upon several items, three items.

4 Mr President, we ask the Chamber indeed to *proprio motu* reduce the list of witnesses,
5 at least the number, in light of the clear decision of the Pre-Trial Chamber where the
6 geographical and temporal scope, as well as the contextual elements were clearly
7 defined. Four locations are left to be litigated in less than three months of time span.

8 I remind the Chamber, though needless, that the Prosecution did not seek leave to
9 appeal the confirmation of charges decision, which means that they accepted the
10 scope of the ruling, set by the ruling, and therefore also the contextual elements of the
11 alleged charge.

12 The question whether once the Pre-Trial Chamber declined to confirm certain charges
13 these charges can indirectly be relied upon to prove contextual elements of the
14 charged crimes in a particular context should be answered, in our submission, with
15 no, particularly once the Pre-Trial Chamber, like in this situation, refrained from
16 making any factual findings with respect to these non-confirmed incidents.

17 I remind the Chamber that in paragraph 23 to 25 of the pretrial decision -- Pre-Trial
18 Chamber's decision on the amendment of the charges of 14 May, the Pre-Trial
19 Chamber also answered this question in the negative, the Prosecutor cannot
20 reintroduce non-confirmed charges for which the evidence was lacking.

21 Now, the Prosecution has cited three precedents of the ICTY jurisprudence and one
22 decision of the ICC, Ntaganda, in its submission of 20 April in footnote 10. The three
23 ICTY cases of 2002, 7 and 9, nor the Ntaganda decision can assist the Chamber in this
24 regard because they all dealt with charged crimes, charged crimes as part of a
25 widespread or systematic attack.

1 The present debate, Mr President, your Honours, features about non-charged crimes
2 and not about charged crimes, which the Prosecution tries to introduce to stipulate its
3 alleged contextual elements.

4 The Pre-Trial Chamber clearly in our situation refrained, contrary to the Ntaganda
5 decision, the confirmation decision Ntaganda, clearly distinguished from that
6 decision that the Pre-Trial Chamber in the case of Mr Ngaïssona refrains from
7 entering into any factual findings about the non-confirmed charges.

8 And if you look also into the separate opinion of Judge Tarfusser in the Abu Garda
9 decision, he is taking the same approach and that approach is also referred upon by
10 the Pre-Trial Chamber in our case. If the evidence is missing, it is not necessary to go
11 into the legal analysis of the potential contextual elements.

12 Now, second point, so therefore, to summarise the point, Mr President, the
13 Prosecution can no longer post-confirmation rely on elements that are outside the
14 facts and circumstances of the charges to prove potential contextual elements. The
15 same applies for the argument of the organisational policy.

16 PRESIDING JUDGE SCHMITT: [12:08:02] May I just interrupt you here.

17 MR KNOOPS: [12:08:05] Yes.

18 PRESIDING JUDGE SCHMITT: [12:08:06] We have taken note of your submissions
19 in that regard, and as I said initially, we are limited in time today.

20 MR KNOOPS: [12:08:13] Of course.

21 PRESIDING JUDGE SCHMITT: [12:08:14] And please don't repeat the arguments
22 that are in there.

23 MR KNOOPS: [12:08:18] Okay. Yes.

24 PRESIDING JUDGE SCHMITT: [12:08:20] So I would ask you to shorten this.

25 MR KNOOPS: [12:08:22] Right. The same for the organisational policy argument,

1 the same system applies, and the allegation of the Prosecution that it would like to
2 use the prior intent argument.

3 In addition to our submission, Mr President, we would like to emphasise that there is
4 no authority in support of the proposition of the Prosecution that circumstantial
5 evidence of an accused's prior intent through subsequent acts or post-offence conduct
6 would be well recognised and even commonplace in criminal proceedings.

7 One remark, of course we all know that in the United States federal rules of evidence
8 this is allowed, but the problem here is we are dealing contrary to this precedent in
9 other proceedings with a Pre-Trial Chamber, a confirmation of charges decision,
10 which makes it distinct from other jurisdictions whereby a potential prior intent can
11 be deduced from subsequent acts.

12 So the Prosecution ignores in this regard the clear distinction between those
13 jurisdictions and ignores the findings of the Pre-Trial Chamber that the evidence did
14 not show Mr Ngaïssona's alleged uninterrupted involvement into the Anti-Balaka
15 activities and that he had limited, if any, knowledge and control over their actions.

16 So the Prosecution simply submits a partial reading of the confirmation decision,
17 omits to mention these clear findings of the Chamber. Therefore, Mr President, we
18 ask the Chamber to considerably reduce the number of witnesses in line with the
19 decision on the confirmation of charges.

20 We also ask the Chamber to reduce the number of the so-called international
21 witnesses. You find on the list several individuals, mainly journalists and people
22 from NGOs. These have not been removed from the list, the preliminary list, by the
23 way; yet, if you look at those statements of those individuals, these people were not
24 personally witness of any of the alleged crimes and they limit themselves to the
25 collection of anonymous information in the aftermath of the events.

1 A large portion of these statements, therefore, are not relevant or cannot have any
2 probative value, which was also established in the Gbagbo, Blé Goudé case where the
3 Chamber specifically ruled on those international witnesses. So the list can also be
4 reduced with those individuals.

5 And finally, Mr President, speaking about a parallel investigation of the Prosecution
6 into the Seleka, instead of putting on the list international witnesses who cannot
7 personally testify about any event, the Prosecution did not include several witnesses
8 who could testify about the events also from the perspective of the Seleka coalition. I
9 will not mention them in open session. If the Court wishes, I can go into specifics
10 with the numbers.

11 PRESIDING JUDGE SCHMITT: [12:12:27] No. We understand that.

12 MR KNOOPS: [12:12:29] Thank you.

13 PRESIDING JUDGE SCHMITT: [12:12:30] We can stay in open session.

14 MR KNOOPS: [12:12:32] And there is also one important witness, that's P-0958.

15 The other person I referred to was P-1019.

16 That witness specifically could give a real account of the history of the conflict, the
17 role of the DDR process and the role of Mr Ngaïssona.

18 So we ask the Chamber to reduce the witness list of the Prosecution, including a
19 review of the so-called international witnesses and also look into the two witnesses I
20 just mentioned because if you're speaking about an account of the history of the
21 conflict instead of relying on journalists, we suggest that the mentioned witnesses are
22 far better giving best evidence to this situation. Thank you.

23 PRESIDING JUDGE SCHMITT: [12:13:39] Thank you, Mr Knoops.

24 MR KNOOPS: [12:13:41] Do you want me to respond also to the protective measures
25 directly?

1 PRESIDING JUDGE SCHMITT: [12:13:47] Not at the moment. I think we come
2 back --

3 MR KNOOPS: Thank you.

4 PRESIDING JUDGE SCHMITT: Ms Dimitri, do you want to add something?

5 MS DIMITRI: [12:13:51] Thank you, Mr President. No. We stand by our
6 submissions I think in filing 472 regarding video links and the use of Rule 68.

7 PRESIDING JUDGE SCHMITT: [12:13:59] Thank you very much.

8 Mr Vanderpuye, first of all, shortly, you have not really answered my first question, if
9 there is potential -- if you see potential to limit your provisional and final witness list.
10 Listening to Mr Knoops at least, of course there could perhaps be potential, so to
11 speak, with international witnesses who have no direct knowledge of any events that
12 are part of the confirmed charges.

13 MR VANDERPUYE: [12:14:28] Yes, well, there's kind of two answers to that. One
14 is some international witnesses do actually have direct evidence of events that they
15 witnessed. And, for example, if some witness shows up in Bossangoa on
16 7 December 2013, as opposed to 5 December 2013 when the attack happens, and they
17 find a Muslim village in flames and smouldering, that is relevant evidence of an
18 attack.

19 PRESIDING JUDGE SCHMITT: [12:14:59] Mr Vanderpuye, I think I can shorten that.
20 Of course these witnesses might, might have some sort of knowledge, of course. But
21 I understood Mr Knoops more in a way that so-called international witnesses - and I
22 know of course also the Gbagbo, Blé Goudé case - who are completely restricted to
23 hearsay, so to speak.

24 MR VANDERPUYE: [12:15:22] Sure. We have considered that. And as I
25 mentioned before, where witnesses have evidence that doesn't go to the act or

1 conduct of the accused, it's not our intention to call them to come and testify. It's our
2 intention to tender them pursuant to Rule 68 because they have evidence that doesn't
3 go to the acts and conduct of the accused and which will facilitate the expeditious
4 conduct of the proceedings. Rather, it's the Defence, Mr Knoops in particular, who
5 objected to the Prosecution's use of Rule 68(2) in exactly this manner in relation to our
6 prior submissions.

7 I would also add in terms of the scope of the case a couple of things that I think bear
8 our response to Mr Knoops' points. The first is in his reference to the Ntaganda
9 decision I think it's as clear as day. It says as the charged crimes must take place
10 within the context of an attack, the Prosecutor is free to present further additional acts
11 to the ones charged with a view towards demonstrating that attack. In the context of
12 this case, that attack was framed by the Pre-Trial Chamber - if he wants to talk about
13 facts and circumstances - as follows: "As a result, from September 2013 onwards, the
14 Muslim population became the target of deliberate attacks carried out by the
15 Anti-Balaka groups as a form of retributive violence throughout Bangui ... Boeig ...
16 Bimbo, and across western CAR Prefectures, including ... (Bossangoa) ... (Berbérati,
17 Carnot, Guen, Boda) ... (Bossemptélé) ... (Yaloké, Gaga, Zawa Boali)." We charged all
18 but Boali in the original DCC. The fact that the Pre-Trial Chamber did not find Mr
19 Ngaïssona individually criminally responsible for those crimes does not mean that
20 those crimes don't form part of the attack.

21 So in terms of the scope of the case and the scope of the confirmation decision I think
22 it is pretty clear what the Pre-Trial Chamber confirmed, both in terms of temporal
23 nature of it, its geographic nature, and the number of victims as well.

24 The same goes for the findings concerning the contextual elements for war crimes.

25 As you will recall, Mr Yekatom is charged with a war crime in the use and

1 recruitment of children, which according to the Pre-Trial Chamber occurred at least
2 through August 2014. So that and the fact that there was an armed conflict which
3 preceded that or continued during that period is a relevant contextual element and is
4 further demonstrated by the fact that there were attacks in all of the places I just
5 mentioned.

6 So I think there's no question about what the scope of the evidence is as a result of or
7 following the confirmation decision. More particularly in the operative part of the
8 confirmation decision the Pre-Trial Chamber says explicitly that the crimes occurred
9 all committed as part of a widespread attack carried out by --

10 THE INTERPRETER: [12:18:46] Could the speaker slow down, please, for the
11 record.

12 MR VANDERPUYE: [12:18:49] Sorry, sorry. All committed, listing all of the crimes,
13 as part of a widespread attack carried out by the Anti-Balaka, including Yekatom's
14 group, between September 2013 and December 2014.

15 PRESIDING JUDGE SCHMITT: [12:19:11] I have to interrupt here because this goes
16 a wrong path, so to speak. Not that I say that anybody what has been said is wrong,
17 but this is a status conference and the Chamber, we will address at the end the scope
18 of the charges and motions that we have received in that regard. So we don't discuss
19 this here. This is not the time for it. And of course the Chamber is also fully
20 capable of understanding what the scope of the charges means, how far it extends and
21 what this, for the taking of the evidence that means. So you can really trust us that
22 we know the jurisprudence and that we perfectly know how to handle this. So
23 I think we can stop this here and go over to the next point.

24 MR VANDERPUYE: [12:19:56] That's fine. I was just responding to Mr Knoops.

25 PRESIDING JUDGE SCHMITT: [12:19:59] No, no. Yeah, I did not interrupt you

1 earlier because I gave also Mr Knoops the floor for that, but please understand both,
2 that we have to limit that here. So we could discuss this for five hours ongoing here,
3 if we want to, but we don't want to and we don't have the time to.

4 Expert witnesses.

5 The Chamber notes that the Prosecution recently indicated that it intends to call five
6 experts on different topics, historical and overview regarding the conflict, satellite
7 photography, trauma, call data records, child soldiers.

8 The Chamber also recalls that the Yekatom Defence proposed joint instruction of
9 experts. At the same time, the Chamber just recently received notification that the
10 Yekatom Defence is interviewing an expert on the CAR. I'm not saying now whom
11 but that you are, at the moment, in the process of doing that.

12 In light of the potential topical overlaps and also noting the experience with expert
13 witnesses at the Court, the Chamber is interested in streamlining the presentation of
14 expert evidence and would very much appreciate cooperation between the parties.

15 The Chamber would be particularly interested in hearing from the parties whether
16 they can envisage joint experts - joint experts, not joint instruction, joint experts - on
17 certain more neutral, not evidence-related topics.

18 So you know probably that all Judges here have been in other cases already and
19 sometimes it really seems that the parties in fact agree or at least should agree that
20 some of the experts are simply experts in their field and they are not to be related to
21 the Prosecution or to the Defence or whomever.

22 This would mean that the parties agree on an expert but may both ask questions.

23 We are not talking about the joint instruction, as I said, but which insofar the
24 experiences at this Court are not very promising and it would make perhaps the
25 whole process too complicated, but to agree on joint experts.

1 I will give you an example so not to stay in the abstract here.

2 The just mentioned expert, Yekatom Defence, could testify about a rather undisputed
3 matter between the parties, namely the historical conflict in the CAR. And it seems
4 at least, it seems that this expert is accepted by the Yekatom Defence and the
5 Prosecution and probably also by the Ngaïssona Defence, and thus appears to be a
6 suitable candidate for such a joint expert. But this is just an example. It should not
7 be misunderstood as to be limited to just this expert and to this particular area of
8 expertise.

9 Of course there are -- we are also aware that there are limits of course. There are
10 topics which have to be contested by the other party. I know that the Chamber
11 knows that. But we would appreciate your view on what I have said on the
12 potential to agree on joint experts and for which topics.

13 I again start with the Prosecution. You are always the first to give your views,
14 Mr Vanderpuye.

15 MR VANDERPUYE: [12:23:25] Thank you, Mr President, and I appreciate that.

16 Yes, on the issue of the joint instruction or joint, well, agreement as to certain experts,
17 I think it's important to mention from our perspective that, you know, we've been
18 gearing up for this case for a very long time and there are a number of expert
19 witnesses and we already instructed ahead of the confirmation process, and those
20 would consist of experts in child soldiers, trauma, satellite imagery, demographics,
21 and I believe we have one on CDR.

22 There was one remaining by the time the case had been confirmed which we had not
23 yet instructed or were in the process of thinking about instructing, and we
24 approached the Defence on an overview witness who could testify about the situation
25 and the historical context in which the crimes occurred, or at least the conflict

1 occurred, who the various actors were on the ground, that kind of stuff. But we did
2 not get consent from the Defence with respect to this.

3 PRESIDING JUDGE SCHMITT: [12:24:40] But perhaps it would make a difference if
4 there is a sort of a mild inducement by the Chamber. I think we give it simply a try.
5 If you don't agree, perhaps the Chamber will have to reserve its right to name their
6 own expert, so to speak.

7 MR VANDERPUYE: [12:24:54] We're happy --

8 PRESIDING JUDGE SCHMITT: [12:24:55] But we are always -- but this is the
9 principle of this Chamber and has been with other Chambers where I have been
10 sitting in, that we appreciate, at least in matters which are not contested or should
11 reasonably not be contested, cooperation between the parties. I have mentioned this
12 several times, yes.

13 MR VANDERPUYE: [12:25:19] We're very happy to collaborate with the Defence to
14 this end. But what I'm -- what I'm saying to the Chamber is that we have made that
15 overture and, in light of the fact that the Defence did not wish to agree to the
16 particular person we had in mind nor counter-propose anyone else, we've gone ahead
17 and instructed that person and they are actually working on the report and so on.
18 And we have that in a number of circumstances because we didn't have the joint
19 instruction or an impetus to have a joint instruction of witnesses in the lead-up to the
20 confirmation process at all with the Defence.

21 So we are almost done with the instruction of the witnesses that we intended to call as
22 experts, but I'm happy to consider whoever else they might propose (Overlapping
23 speakers)

24 PRESIDING JUDGE SCHMITT: [12:26:11] I will make a proposal in the end what
25 the Chamber could think of, proposal meaning that you make joint submissions and

1 you confer with each other. But let me first hear by the Defence what their opinion is
2 on that matter.

3 Perhaps if you reject it completely, so this -- Ms Massidda later, Ms Dimitri first.

4 MS DIMITRI: [12:26:33] Thank you, Mr President, your Honours.

5 Indeed, we welcome cooperation with the Prosecution. We did it on number of
6 occasions on different matters.

7 And our position is the following, maybe we can take it a step backwards. First we
8 need to identify the subject matter that could be a subject of expertise. And I can
9 think of subjects such as CDRs or satellite imagery. And then of course if the
10 Prosecution agree, we can discuss and we can discuss the name of an expert.

11 There are some subjects, and this is the expert Mr -- the Prosecution is referring to,
12 where we do not feel the need to have expert witnesses testifying because Prosecution
13 has on their list several witnesses who can speak about the conflict or the background
14 or the context.

15 And this is our position. But we will endeavour to further communicate with the
16 Prosecution on that point, Mr President.

17 PRESIDING JUDGE SCHMITT: [12:27:34] Yes, thank you very much for that.

18 I would agree with you and of course it, the last what you mentioned is another issue
19 of course. If you say principally this is not an issue that is expertise witness but
20 simply a witness, that that can convey us with this information.

21 And I have to say also from the Ongwen case, our experience is that sometimes the
22 classical witnesses which are not called formally experts provided better evidence, so
23 to speak, or good, good evidence on matters that so-called experts who, for example,
24 come from the West, from some European country and have made some sort of
25 academic findings. But, yes, in the end, the people on the ground, the people that

1 live there, that are socialised there, that come from this culture might know better, yes,
2 but nevertheless.

3 So Mr Knoops, you wanted to ...

4 MR KNOOPS: [12:28:30] Yes, Mr President, that is exactly also our position, the last
5 remark you made.

6 My submission is that our Defence team, it's not about not willing to cooperate. Let
7 me stress this. We are of course willing to cooperate, but we -- and speaking on
8 behalf of the defendant, I spoke at length with Mr Ngaïssona about this issue, he
9 prefers not to engage with experts but to engage with witnesses who were on the
10 ground.

11 Like the two people I just mentioned which are not on the list, P-1019 and P-958, my
12 experience in our cases in this Court and other tribunals is that most experts rely on
13 secondary sources, hearsay, anonymous. What we will get here is a whole
14 discussion about the sources of the experts who were not there. In my submission,
15 and based also on experience with the other case of Gbagbo, Blé Goudé, we spent
16 countless hours in court to question the witness, the expert in question about: Well,
17 what is actually your foundation of this finding? You were not there. To whom
18 did you speak to?

19 To avoid this, it's my submission that, first of all, joint instructions, I would say in my
20 profession that can go to -- against the independence of counsel. I have no
21 instructions of my client to allow me to give joint instructions to an expert with the
22 Prosecution. That's first of all. It has to do also with the ethical obligation of a
23 lawyer.

24 Secondly, when we're dealing with the reconstruction of the historical events, there
25 are far -- there's far better evidence in the file which is not on the Prosecution list.

1 And I ask the Chamber to look into those witness statements I just mentioned because
2 if we're speaking about reconstruction of the events and the role of Mr Ngaïssona, for
3 instance, that evidence is best evidence in a way.

4 PRESIDING JUDGE SCHMITT: [12:30:39] Yes, of course. This is, of course this is
5 clear. But nevertheless is a little bit discouraging so to speak, but you might have
6 noted that initially I already said that we are not speaking of joint instruction.

7 MR KNOOPS: [12:30:52] No. To finalise, Mr President, I am sorry that it's
8 discouraging. I'm not here to discourage this trial at all. But I'm just saying that for
9 certain experts like DNA experts or a pathologist, that's of course different than from
10 a witness or an expert who is post factum writing a report about the origin of the
11 conflict. I think we have to differentiate between the type of expertise which we
12 require.

13 We are willing to look into this, but I will say it beforehand to be transparent to you
14 and the Prosecution, that the defendant I represent clearly says, I have seen the list of
15 the Prosecution, I have seen the list of international witnesses, I have seen the list of
16 experts, this will not help in the reconstruction of what exactly in my perception
17 happened.

18 He has read the evidence, we read the evidence, and that's why I say beforehand it's
19 better to spend the time in court with some witness of fact than bringing here five or
20 eight experts and spending hours on verifying the sources.

21 Thank you.

22 PRESIDING JUDGE SCHMITT: [12:32:05] I think we're not speaking of five to eight
23 experts on these topics (Overlapping speakers)

24 MR KNOOPS: [12:32:10] Of course, but just by way of --

25 PRESIDING JUDGE SCHMITT: [12:32:11] Yes, yes, yes --

1 MR KNOOPS: [12:32:11] -- way of example.

2 PRESIDING JUDGE SCHMITT: [12:32:11] Yes. But at least you said there are areas,
3 and nothing else is what the Chamber suggests, that you entertain the idea to have
4 joint expert on certain fields.

5 And it depends on the field of course, but I would still maintain, Ms Dimitri, this
6 expert you were contacting might be one that everyone could agree upon. But we
7 will see.

8 Ms Massidda wanted to say something.

9 MS MASSIDDA: [12:32:44] Thank you very much, your Honour. I was
10 surprisingly quiet today. Very, very briefly for the joint expert. We will be happy
11 to join in any effort for this kind of exercise. We are a little bit reluctant in relation to
12 joint instructions as already indicated by other parties because we may have a
13 different strategy or a different perspective in relation, for instance, to the
14 victimisation. But we would be more than willing to look into that, particularly,
15 your Honour, in relation to the trauma expert, which is one of our main issue for this
16 trial.

17 And also in considering eventually how the issue of victimisation could be touched
18 upon by expert proposed by the Prosecution, so that there will be maybe less interest
19 on our part to eventually also call other witnesses to that effect. Thank you.

20 PRESIDING JUDGE SCHMITT: [12:33:45] Thank you very much, Ms Massidda.
21 So to finish that, should an agreement on joint experts be reached, which the Chamber
22 very much hopes but is not sure if it can expect it after the conversation here, the
23 Chamber would appreciate to receive joint submissions with concrete proposals as
24 soon as possible, and latest by the deadline of the final witness list, which makes
25 sense I think, for which the Chamber will set a deadline in due course, as I have

1 already mentioned.

2 Lastly, the Chamber would like to notify the parties and participants that if no joint
3 expert can be found - it depends of course on the area of expertise, I have to
4 underscore that - the Chamber reserves it right to appoint its own expert.

5 A little bit related to that is, Mr Vanderpuye, that we have of course also in light of
6 the difficulties that you might have to call witnesses, the first place, and in the next, in
7 the near future so to speak, if you are prepared to adjust your presentation of
8 evidence in regard, for example, that you would first call experts or witnesses that are
9 easily reachable because -- or experts they are in The Netherlands or so.

10 So I think you should be prepared to do that. Perhaps you can simply say yes to
11 what I am supposing, so.

12 MR VANDERPUYE: [12:35:13] Yes.

13 PRESIDING JUDGE SCHMITT: [12:35:16] The next point is agreed facts under
14 Rule 69 of the Rules.

15 Yes. You have the floor.

16 MS RABESANDRATANA: [12:35:24](Interpretation) Yes, Mr President, with regard
17 to the last question, I would like to quite simply make an observation, which is the
18 following:

19 If a draft agreement is just about to become reality, we're not going to get into the
20 contents of that agreement, but it might be timely for the Legal Representatives of
21 Victims for this intention to be notified to them so that they might be in a position to
22 make observations or provide their views with regard to the contents.

23 So the LRVs should be notified on this point with regard to a proposal or a draft
24 agreement that might be in the making.

25 Thank you. Just notify the information to us, please.

1 PRESIDING JUDGE SCHMITT: [12:36:30] That is duly noted.

2 The next point on the agenda are agreed facts under Rule 69 of the Rules, so, yes.

3 The Chamber considers that agreed facts under Rule 69 of the Rules constitute an

4 important tool to ensure the efficiency of the proceedings. So this is for a Sunday

5 speech, so to say. Unfortunately, in this Court this tool has been underutilised in the

6 past. The Chamber would nevertheless welcome that the parties, or welcomes that

7 the parties have at least claimed to have begun discussions in this regard. We would

8 particularly encourage you to concentrate your efforts on what other disputed issues

9 and allegations against the accused in this case. This would help in the end

10 everyone, everyone meaning every party and participant.

11 When deciding if it considered agreed facts as being proven, the Chamber will take

12 into account the views of the representatives of the victims -- for victims, if

13 appropriate, in accordance with Rule 69.

14 Irrespective of the outcome of Rule 69 negotiations, the Chamber also strongly

15 encourages the parties to concentrate their presentation of evidence on the relevant

16 and really material disputed matters. There is a wide, wide potential, at least in my

17 experience, of facts and circumstances that might not -- you might not agree upon but

18 which are in fact not really materially disputed. It doesn't make sense to spend a lot

19 of Court time on that and this is, for me at least after a couple of years here in the

20 courtroom, a lesson learned that there is much more potential in that regard. Even if

21 you say, okay, we can't go so far to agree on it, but really we should concentrate.

22 And the Chamber actually, this is also a lesson learned, will be vigilant that this

23 actually also happens.

24 Now, in the light of the fact that three months have passed since the Chamber last

25 received any information, we would like to hear if progress has been made or if not.

1 Again, Mr Vanderpuye, please.

2 MR VANDERPUYE: [12:38:43] Thank you, Mr President. And I will say that I do
3 agree with your assessment of the potential use of agreed facts as a tool to expedite
4 the proceedings, particularly at the Court.

5 We did make a couple of overtures to the Defence. We proposed in one, in one set
6 some 58 potential agreed facts, and we followed that with a second attempt of 106
7 proposed agreed facts. And my -- and maybe Mr Knoops can help me out here, but
8 I think the Ngaïssona Defence basically agreed to three of those so far.

9 They haven't responded yet on the one with 106 proposals, but they have responded
10 to the one with 58 and agreed to three items, one relating to his -- the date that
11 Mr Ngaïssona was elected to the federation of football, Central African Football
12 Federation; the second in relation to his representation of the town of Nana-Bakassa
13 in 2011; and the third relates to his nomination as the minister of youth and sports
14 and culture by a 3 February 2013 decree.

15 That is essentially what they have agreed to. What was proposed concerned
16 obviously more important, I think, information concerning --

17 PRESIDING JUDGE SCHMITT: [12:40:41] Yes, but we can't be so specific now, this
18 would take too long.

19 MR VANDERPUYE: [12:40:42] No, no, no, I'm not going to go through the facts, but
20 the categories we're talking about are the contextual elements of the crimes, for
21 example. The fact of Seleka crimes, the composition of the Anti-Balaka, the -- you
22 know, things like that. The numbers of elements, things like this.

23 And the second proposal much the same, more germane or at least arising directly
24 from the findings of fact that were made in the confirmation decision. We will wait
25 to see what the Defence response is with respect to those, but that's effectively where

1 we are.

2 The Yekatom Defence has effectively, in my view anyway, declined to consider
3 agreed facts. They had certain objections to the course of disclosure and have said,
4 basically we're not going to consider the agreed facts until you resolve the questions
5 of disclosure, which to me, seem to me disjointed. But in any event that's their
6 position and I assume it remains the same.

7 So it doesn't seem likely that we'll gain any traction in that respect either.

8 PRESIDING JUDGE SCHMITT: [12:41:56] Yes. So this accords perfectly with my
9 experience in this Court until now with different cases, but you never stop to try at
10 least.

11 Mr Knoops, do you want to say something on that matter?

12 MR KNOOPS: [12:42:09] Yes, Mr President.

13 Yes, Mr President, I think with your experience as a judge at this Court that the
14 expectations on this issue should not be to set -- set too high. We're always willing
15 to look at agreed facts, but if we are so fundamentally already disagreeing about the
16 interpretation of the decision on the confirmation of charges, like paragraph 170,
17 where the Court specifically says no evidence between Mr Ngaïssona and the national
18 coordinator in Bangui on the one hand and the ComZones in the districts, 10 of which
19 were not confirmed. If the Prosecution, Defence already, like today when we speak
20 about the scope of the charges, are so fundamentally disagreeing about the reading of
21 that decision, it's difficult. (Overlapping speakers)

22 PRESIDING JUDGE SCHMITT: [12:43:10] We can simply, we can simply I think
23 shorten this here.

24 MR KNOOPS: [12:43:11] Yes.

25 PRESIDING JUDGE SCHMITT: [12:43:14] Because I only wanted to have an update.

1 Any specifics we cannot discuss here and of course nobody can be forced to agree on
2 anything here. So I simply wanted to have an update and the main information we
3 have gotten from Mr Vanderpuye in that regard. I don't know if there is still
4 potential, but you can say something to that effect shortly.

5 MR KNOOPS: [12:43:36] Yes, we always, and that I can assure the Chamber, we
6 always as Defence - I did it every case, despite the discrepancy between the readings
7 of the Prosecution, Defence on certain things - we always seriously look at the
8 proposals. We take it seriously. And if we can we certainly will agree to certain
9 facts. But I just also here want to lower the expectation in this case where Defence
10 and Prosecution so fundamentally disagree.

11 PRESIDING JUDGE SCHMITT: [12:44:04] Thank you, Mr Knoops. Actually, you
12 don't have to lower my expectations here.

13 Ms Dimitri.

14 MS DIMITRI: [12:44:10] Thank you, Mr President, your Honours.

15 I just want to clarify the record here. The Defence of Mr Yekatom didn't decline to
16 consider the agreed facts. We had a number of pending disclosure requests dating
17 back to December 2019. We told the Prosecution: Respond to our letters, clear the
18 docket and then we will move forward and consider the agreed facts. We received
19 the answer yesterday. We are now looking into the agreed facts and we will
20 consider them. Thank you.

21 PRESIDING JUDGE SCHMITT: [12:44:43] Thank you, Ms Dimitri.

22 So if the parties agree on anything, then we expect that they file a joint submission of
23 such agreed facts and we will set a deadline in due course which accords to the
24 other deadlines that we are going to set.

25 So the last point on the agenda that you have received is the update and focus on

1 additional victim participation applications. At the moment, the procedure adopted
2 by the Pre-Trial Chamber regarding the victim applications remains in place. We
3 note two issues here.

4 First, with respect to the first already accepted victim applications, the Chamber notes
5 that the factual scope of the charges has been reduced following the confirmation of
6 charges decision, which may affect a number of accepted victim applications.

7 Secondly, with respect to accepting further applications, the Chamber takes note of
8 the CLRV's and Registry VPRS' submissions that large number of victims might come
9 forward, and the various challenges faced in collecting their applications, again,
10 particularly in light of the coronavirus pandemic.

11 The Chamber would accordingly be assisted in receiving updated information now,
12 especially from the CLRV and VPRS/Registry with respect to determining the number
13 of participating victims in light of the reduced scope of the charges.

14 And secondly, progress and forecast on collecting further victim applications.

15 Ms Massidda, do you want to start?

16 MS MASSIDDA: [12:46:25] Thank you very much, your Honour.

17 Now, in relation to the fact that the scope of the charges have been reduced,
18 unfortunately, fortunately, this doesn't mean that the numbers of victims will be
19 lower than expected because some of our clients, for instance, waited until the
20 confirmation or not confirmation of the charges to come forward. So this means
21 actually that we have quite a large number of victims residing in Bangui and outside
22 Bangui. So we have, for instance, a huge diaspora in Chad, in Cameroon, directly
23 related to the events which were confirmed by the Pre-Trial Chamber.

24 As of today, we are managing of continuing our work in the field, which means that
25 we are able to some extent to either collect supplemental information for the victims

1 who may request the kind of information to qualify or to continue to qualify in the
2 case, but we are also able to continue to collect new applications. The result of the
3 work is that as of today, concerning specifically the clients who appointed myself, we
4 have already provided to the VPRS 74 new application forms. We have around 250
5 in the pipeline and more applications arriving. Just to give a short overview of the
6 numbers.

7 My colleague Elisabeth Rabesandratana will be able to illustrate a little bit better the
8 situation for Chad, and I will also tell you that, for Cameroon, we have a huge
9 numbers of victims dispersed there. We are talking of a little bit more than 3,000
10 people who could potentially be victims qualifying for this case.

11 We have in place precautions to continue the work, so we will be able to continue to
12 submit to the Registry on a rotating basis application forms. However, and this is
13 my last point, we would be more than grateful to the Chamber if the Chamber could
14 consider to allow the Legal Representative of Victims to continue on a rotating basis
15 to file application with the Registry at least until the end of the Prosecution case.

16 Thank you very much, your Honour.

17 PRESIDING JUDGE SCHMITT: [12:49:01] Duly noted.

18 MS MASSIDDA: [12:49:02] Thank you.

19 PRESIDING JUDGE SCHMITT: [12:49:04] Do you want to add something? You
20 have the floor.

21 MS RABESANDRATANA: [12:49:10](Interpretation) Yes, thank you, Mr President.

22 With regard to the situation of the victims in Chad, those participating victims, those
23 who have been accepted to participate, that is, there will not be a reduction of the
24 number of victims because the first applications come from the camp that is closest to
25 the capital N'Djamena. For the most part, these are victims who hail from Bangui.

1 So in terms of the geographical scope, it is quite limited around that very camp.
2 Now, this concerns victims who live along -- in camps along the frontier between
3 Chad and the Central African Republic, there are many camps there, seven in number,
4 and also because those victims came via Cameroon before arriving in Chad. So
5 internet connections are very complicated. However, we do have 170 new forms
6 that I will be transmitting and I have brought a number of them with me today. But
7 for the remainder, there is a potential source of victims which is quite numerous but I
8 can't give you the precise number of victims who are to be found along that frontier
9 that I just mentioned.

10 But of course I would also like to back what my co-counsel has just said, that is to say
11 that we have the possibility of filing those applications throughout the proceedings.

12 PRESIDING JUDGE SCHMITT: [12:51:11] Thank you, Ms Rabesandratana.

13 And from Registry any submissions?

14 MR SUPRUN: [12:51:21](Interpretation) Mr President, if I may?

15 PRESIDING JUDGE SCHMITT: [12:51:23] Yes, you have the floor.

16 MR SUPRUN: [12:51:26](Interpretation) Yes, thank you, Mr President.

17 Now just to update you on the former child soldiers. As you know, charge 29 with
18 regard to the enrollment of child soldiers under the age of 15 in hostilities has been
19 confirmed with regard to Mr Yekatom, but not with regard to Mr Ngaïssona. Which
20 means that the number of child soldiers who took part in the pretrial phase remains
21 the same, that is to say 88 in number.

22 With regard to the new applications for participation, we -- this was primarily the
23 responsibility of our colleagues from VPRS. There are a number of people who
24 allege that they are former child soldiers for the Anti-Balaka and we have sent their
25 forms to VPRS to be processed.

1 Thank you.

2 PRESIDING JUDGE SCHMITT: [12:52:25] Thank you very much. So I was a little
3 bit premature.

4 Then any submissions by the Registry?

5 MS BRIKCI: [12:52:31] Thank you very much, Mr President.

6 I will start with the update on the applications received and the review where we are.

7 To date, the Registry has received a total of 1,339 applications from victims in the
8 proceedings in relation to this case. This figure includes the 1,244 applications that
9 we mention in our last filing that were received during the pretrial proceedings.

10 And 95 new applications that we have received lately, including the 74 that

11 Mrs Paolina Massidda has just mentioned.

12 The Registry is still carrying out its comprehensive review of the applications

13 received during the pretrial proceedings in light of the confirmed scope of the case, as
14 we already reported in our last filing 470 of 8 April.

15 The Registry is also currently in the process of going to the Common Legal

16 Representatives to counsel them on the 1,087 participating victims regarding the

17 result of our ongoing review. In particular, in relation to those participating victims
18 which might be negatively impacted by the decision on the confirmation of charges.

19 In order to finalise our legal analysis on these applications, the Registry is waiting for
20 feedback and supplementary information to be received from the Common Legal

21 Representatives. We are at the moment receiving already some feedback and

22 supplementary information but we are still waiting for more.

23 The Registry will also shortly come to the Chamber to seek for guidance in relation to

24 some issues that we need clarification on that are issues that come from the clarity of

25 the decision on the confirmation of charges on some aspects of the scope of the case.

1 Now, turning to the forecast on potential new applications that we will receive. As
2 everybody already mentioned, there are COVID-19 restrictions and, due to these
3 restrictions, the Registry has not been in a position to conduct yet face-to-face
4 interviews with victims, nor to ask our trained intermediaries to assist in this task.
5 The Registry however has been informed that approximately 300 individuals have
6 already expressed their interest in filling in participation forms in relation to this case,
7 but no application has yet been received in relation to these 300 individuals.
8 The Registry is also exploring ways, options to bridge the COVID-19-related physical
9 restrictions and, for example, we are currently exploring whether we could collect
10 forms through telephone meetings or through other virtual tools or forums to
11 communicate while of course observing the restriction -- I mean, the security and
12 safety restrictions. We are also exploring whether we could do so through
13 information dissemination through our intermediaries that have been selected, also
14 observing health security rules.
15 The Registry anticipates that there will be delays in accessing to relevant victims, as
16 some of us have already highlighted, and we anticipate that this might necessitate the
17 continuation of activities in relation to victim participation through 2021. This is
18 why the Registry concurs with the proposals made by the Common Legal
19 Representatives and suggest that the Chamber might opt for the option of having no
20 cutoff date until the end of the Prosecution case if, if there should be a cutoff date.
21 Otherwise, our preferred offer is there would be no cutoff date and we would be able
22 to carry on collecting applications from victims and transmitting them in batches on a
23 rolling basis.
24 And if the Chamber is willing to consider these suggestions, the Registry is in a
25 position to be ready at short notice to make written submissions on these suggestions.

1 Thank you very much.

2 PRESIDING JUDGE SCHMITT: [12:57:58] Thank you very much for your concise
3 information.

4 I don't think that the Defence want to comment on that, or do you? Mr Knoops,
5 shortly please.

6 MR KNOOPS: [12:58:08] Yes, very, very brief, Mr President.

7 PRESIDING JUDGE SCHMITT: [12:58:08] Keep the time in mind.

8 MR KNOOPS: [12:58:10] Yes. With respect to the cutoff date, I think that's relevant.

9 I assume that -- at least I hope that the figure, the year 2021, will not influence the
10 minds of the judges when it concerns the start of the trial, because --

11 PRESIDING JUDGE SCHMITT: [12:58:33] No, definitely not.

12 MR KNOOPS: [12:58:34] Thank you.

13 Our submission is, on 5 March 2019 the Pre-Trial Chamber made its ruling on victims
14 participation. It was advertised on the ICC website. Meaning that, since

15 5 March 2019 victims could supply their applications. In our submission, there
16 should be a cutoff date and I think it's for us not acceptable that even until the end of
17 the Prosecution case victims can apply their applications, can apply for applications.

18 So we insist that the Chamber should, in light of the time frame of since 5 March 2019,
19 set either the trial date as a cutoff date or, like in the Ivorian case, 90 days before the
20 trial starts as a final date for victims' applications.

21 PRESIDING JUDGE SCHMITT: [12:59:25] Thank you very much.

22 MR KNOOPS: [12:59:26] Thank you.

23 PRESIDING JUDGE SCHMITT: [12:59:27] Ms Dimitri, any comments on that?

24 MS DIMITRI: [12:59:29] No, Mr President. I have two more points, but not on this.

25 PRESIDING JUDGE SCHMITT: [12:59:37] (Overlapping speakers)

1 MS DIMITRI: [12:59:39] Thank you, Mr President. I'm in your hands, because I
2 look at the time. I can be quite short, but two matters arised since the submissions
3 on the first status conference. I stand ready to file a written motion, but -- written
4 submissions, but I can deal with them in, I believe in less than 10 minutes.

5 PRESIDING JUDGE SCHMITT: [12:59:59] Let us short, short -- finish this topic.

6 MS DIMITRI: Yes.

7 PRESIDING JUDGE SCHMITT: [13:00:02] And then I give you the floor again.

8 MS DIMITRI: [13:00:04] Thank you.

9 PRESIDING JUDGE SCHMITT: [13:00:07] Whichever system we adopt, if a cutoff
10 date or not a cutoff date and when at cutoff date at what time, the Chambers urges
11 VPRS, but this is taken to immediately commence to the collection of further victims'
12 applications and of course to be in constant conversation and communication with
13 Legal Representatives of the Victims.

14 The Chamber also notes that the modalities of victims' participation during the
15 proceedings and their presentation of the evidence will be part of an upcoming Rule
16 140 decision, that is relatively clear.

17 And now I give the floor again to Ms Dimitri. But could you shortly flag what it is
18 about and then we can decide if we prefer to have written submissions or if you can
19 present it orally.

20 MS DIMITRI: [13:00:53] Yes, Mr President. So -- and I can assure you that they
21 were raised with the Prosecution in inter partes communications as well as in
22 meetings but we didn't find a resolution, which is why we need the intervention of
23 the Chamber. But as I said, I'm in your hands if you want written submissions.
24 The first point is in relation to disclosure of screening notes. We understand your
25 decision on draft statements, I'm not coming back on that, but we have an issue in

1 relation to screening notes.

2 PRESIDING JUDGE SCHMITT: [13:01:25] Then submissions, please. Yes.

3 MS DIMITRI: [13:01:27] Okay. Thank you, Mr President.

4 The first -- since the insurance of your decision on draft statements there's been a
5 disagreement with the Prosecution in relation to screening notes and they're on notice
6 this morning that I wanted to address this.

7 So on 3 September 2019, the Pre-Trial Chamber, as you know, issued a decision on the
8 Defence motion for extension of time to file its list of evidence, filing 315. And in
9 that decision the order was for the Prosecution to disclose the 108 screening notes for
10 witnesses upon whom the Prosecutor will rely at the confirmation hearing --

11 PRESIDING JUDGE SCHMITT: [13:02:07] Ms Dimitri, that was my mistake. I
12 wanted written submissions. I said submissions, but that was simply my mistake, so
13 I have to take this upon me.

14 So this is very specific --

15 MS DIMITRI: [13:02:16] It is.

16 PRESIDING JUDGE SCHMITT: [13:02:16] -- and we have to think about it carefully.
17 We can't, we can't say something meaningful on the spot here to it. Yeah.

18 MS DIMITRI: [13:02:21] Okay.

19 PRESIDING JUDGE SCHMITT: [13:02:23] So we really appreciate it if you --

20 MS DIMITRI: No problem.

21 PRESIDING JUDGE SCHMITT: -- have written submissions.

22 MS DIMITRI: [13:02:28] Can I just inform the Chamber about my second point and
23 you can discuss?

24 PRESIDING JUDGE SCHMITT: [13:02:29] Of course, of course.

25 MS DIMITRI: [13:02:30] Okay. So the second issue, it's just to supplement our

1 submissions in relation to the amendment that we proposed for the redaction protocol.
2 You have our submissions, I'm not going to repeat them. I simply want to flag that
3 it's a recurrent problem. We received in the latest disclosure batch - I can give
4 concrete examples for the Chamber - in the latest disclosure batches of witnesses, we
5 continue to receive statements with B1, B2 or B3 redactions on individuals who are
6 direct witnesses of alleged incident that Mr -- that our client is charged with. I have
7 for example in package INCRIM 34, 35 and 36, I have a B3 redaction over a name of
8 an alleged victim of Mr Yekatom's (Overlapping speakers)

9 THE INTERPRETER: [13:03:34] Could the speaker be requested to slow down,
10 please.

11 MS DIMITRI: [13:03:38] I have the ERN numbers if your Honours wish to look at
12 them. I also have --

13 PRESIDING JUDGE SCHMITT: [13:03:41] You are now -- you are now number three
14 on the list to speak too quickly. I have been reprimanded.

15 But we can also -- we can also shorten this one. This is also very specific. We have
16 to look into it specifically. So please, we know what it's about, you have flagged it,
17 that's okay during the status conference, but please make written submissions on that.

18 MS DIMITRI: [13:04:00] You want written --

19 PRESIDING JUDGE SCHMITT: [13:04:03] Yes, please, please.

20 MS DIMITRI: [13:04:04] Okay.

21 PRESIDING JUDGE SCHMITT: Thank you very much.

22 Because we have one final item that was not on the agenda but it appeared to be
23 necessary to mention it, that is the scope of the charges. Before we close this hearing,
24 therefore, the Chamber wants to -- or notes, let me word it this way, the concerning
25 number of motions relating to the scope of the charges as set out in the confirmation

1 decision.

2 In this regard the Chamber particularly notes the Prosecution's Regulation 55 request,
3 which has already been adjudicated; the pending motions by the Yekatom Defence to
4 dismiss a mode of liability and responses thereto; the motion for additional details
5 and responses thereto; as well as in Ngaïssona's defence's observations on the
6 preliminary list of witnesses, which is connected to that.

7 The Chamber recalls its findings in decision 542, namely that and I quote here:

8 "... the Court's statutory framework does not provide for the possibility of a review of
9 confirmation decisions by trial chambers and have afforded distinct powers to the
10 pre-trial chambers to determine the factual scope of the charges."

11 Quote end.

12 The Chamber will therefore defer to the PTC II's findings. Nonetheless, insofar as
13 there are uncertainties, mere uncertainties as to the interpretation of the confirmation
14 decision, the Chamber wants these matters to be settled as soon as possible, and
15 certainly before trial starts, and does not want to be followed by this as a result -- as a
16 recurring theme throughout the whole trial. It is of the utmost importance that the
17 accused fully understands the scope of the charges and that all parties and
18 participants can properly prepare for trial. It is therefore in the interests of everyone
19 to resolve any uncertainties about the charges at this juncture, as far it is possible to
20 do so for this Chamber. Consequently, the Chamber sets 31 August 2020 as the final
21 deadline to raise any remaining issues in relation to the charges. Thereafter the
22 Chamber will not hear any more motions on this matter.

23 This was last issue the Chamber wanted to address today.

24 And then I would like to say for clarity at the end that we have to put on record that

25 Mr Ngaïssona - I think it was clear but to put it on the record - was provided with the

1 possibility to attend this status conference via video link but chose not to do so,
2 whatever the reason for this may be. This is not a reprimand, it's simply to make it
3 clear for the record.

4 The Chamber would like to thank the parties, the participants and the Registry for the
5 helpful submissions today, as well as the interpreters, that we were so fast had of
6 course also something to do not only with the personal features but also with the fact
7 that we have limited time. So if in the end, for example, I forced a little bit
8 Ms Dimitri and she went faster than she would perhaps normally do, so bear with us
9 please.

10 We thank the court reporters, security officers, and the Court is adjourned.

11 THE COURT OFFICER: [13:07:41] All rise.

12 (The hearing ends in open session at 1.07 p.m.)