

Annex

confidential *ex parte*, Prosecutor

List of Questions to Be Discussed at the Status Conference, Prosecutor only

General

1. The investigation of the Office of the Prosecutor in relation to this case dates back to 2004/2005. Does the Office of the Prosecutor intend to re-investigate the case? How much time does the Prosecutor estimate this will take?
2. The warrant of arrest for Dominic Ongwen contains seven counts of crimes against humanity and war crimes. Does the Prosecutor consider amending the charges for the purpose of the confirmation of charges hearing? If yes, how much time does the Prosecutor estimate this will take? What will be the implications for the start of the confirmation of charges hearing, taking into consideration not only the time to collect the evidence but also the time needed to take measures of protection, including presenting requests for redactions to the Chamber?
3. What is the position of the Prosecutor with regard to the possibility to initiate proceedings against Joseph Kony, Vincent Otti and Okot Odhiambo in absentia (article 61(2) of the Statute) at the same time? In case the Prosecutor would need to re-investigate the case in relation to those suspects, how much time does the Prosecutor estimate this will take?

Evidence to be disclosed/ Redactions

4. What is the overall amount of evidence that the Office of the Prosecutor is currently in possession of and intends to use for the purpose of the confirmation of charges hearing? Is the Office of the Prosecutor in a position to disclose this evidence in the coming weeks? If time is required to review the evidence for this case, how much time will this review require?
5. Will certain documents/witness statements require redactions vis-à-vis the Defence and, if yes, what is the estimated amount of evidence currently in possession of the Prosecutor that she estimates would require redactions? With regard to the documents/witness statements currently in the possession of the Prosecutor requiring redactions, when would the Prosecutor be in a position to submit those requests for redactions to the Chamber?
6. Which pieces of evidence can be disclosed immediately to the suspect, in unredacted form?

Re-classification of the Prosecutor's application under article 58 and the warrant of arrest

7. The Prosecutor's application under article 58 is still treated under seal (ICC-02/04-8-US-Exp, including 73 annexes). A proposal for a redacted version of the Prosecutor's application is also available, albeit under seal ex parte, Prosecutor only (ICC-02/04-9-US-Exp). When would the Office of the Prosecutor be in a position to submit appropriate redaction proposals to the Chamber in order for the Prosecutor's article 58 application (including its annexes, as the case may be) be promptly communicated to the suspect?
8. The warrant of arrest for Dominic Ongwen is currently classified as confidential. Crucial information (e.g. locations, time) is redacted and cannot be referred to in public. Most importantly, the Registry cannot inform victims about the scope of the case. Could the Prosecutor explain why the 2005 warrant of arrest cannot at this point in time made public? If not, what measures should be taken prior to the re-classification as public?

Witnesses

9. How many witnesses whose statements were used for the purpose of the issuance of the warrant of arrest does the Prosecutor need to contact again, if any? How many witness statements does the Prosecutor currently intend to disclose pursuant to rule 76 of the Rules? Does the Prosecutor intend to rely on witness summaries?
10. The Chamber would like to receive an updated risk assessment for each witness that the Prosecutor intends to rely on for the purposes of the confirmation of charges process. In case the Prosecutor intends to make use of the same witnesses relied upon for the warrant of arrest, has the information about those witnesses been shared with the Victims and Witnesses Unit (VWU) at the time? If not, will the Prosecutor share this information with the VWU in the near future? Does the Prosecutor anticipate that further protective measures could be necessary for witnesses to be relied upon?
11. Are any of the Prosecutor's witnesses in the protection programme of the Court? Have they been "preventively" relocated, contrast to the principles enunciated in the Appeals Chamber judgment of 26 November 2008 (ICC-01/04-01/07-776)?
12. Are there any other protection issues which the office of the Prosecutor wishes to raise with the Chamber at this point in time?

Evidence affected by "confidentiality agreements"

13. Is some of the exculpatory evidence (article 67(2) of the Statute) or evidence that is material for the preparation of the defence (rule 77 of the Rules) affected by "confidentiality agreements" within the meaning of article 54(3)(e), 72 or 93 of the Statute? If yes, how many? Can consent of the information providers be secured in the near future? Has the process of seeking their consent already started?

Language

14. The language the suspect fully understands and speaks is Acholi. Portions of core pieces of evidence will need to be translated into Acholi as well. Has evidence been translated into this language? How much time will be required to translate incriminating portions of witness statements or other pieces of evidence, currently in possession of the Office of the Prosecutor, into Acholi?
15. In case further witness statements or other pieces of evidence are collected, how will the translation issue impact on the length of proceedings before the Chamber and the date of the start of the confirmation of charges hearing? What will be the measures adopted by the Office of the Prosecutor in this respect?