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PRE-TRIAL CHAMBER A (ARTICLE 70)

Before: Judge Reine Adélaïde Sophie Alapini-Gansou

SITUATION IN THE REPUBLIC OF KENYA

**IN THE CASE OF
THE PROSECUTOR v. PAUL GICHERU**

Public

**Public Redacted Version of “Reply to the Prosecution’s Response to Paul Gicheru’s
Written Submissions,” 18 May 2021**

Source: Counsel for Mr. Paul Gicheru

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

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Mr. Paul Gicheru, through his Counsel (“the Defence”) hereby replies to the Office of the Prosecutor’s (“OTP”) Response to Paul Gicheru’s Written Submissions,¹ and to its Written Submissions on the Confirmation of Charges.² The OTP’s rendition of the Defence’s characterization of the Document Containing the Charges (“DCC”) and the law is so misplaced and so flawed that virtually every sentence warrants a reply. Lacking the requisite qualitative value, the OTP’s evidence does not meet its burden of proof. No amount of ventilating and testing the OTP’s evidence at trial will make it any less unreliable, less uncorroborated, and less unsuitable to meet the even higher burden of proof *beyond a reasonable doubt*. The charges against Mr. Gicheru should be declined.

I. REPLY

A. The OTP Misrepresents the Applicable Standard of Proof and Assessment of Evidence

1. The Defence is neither advocating for the application of common law rules of evidence nor advancing evidentiary assessment principles that impede the civil law approach of *free evaluation of evidence*. Hearsay evidence, although admissible at the ICC, is “accorded a lower probative value than direct evidence,”³ since the reliability of the out-of-court statement depends on the credibility of the declarant, whose statements cannot be tested for *reliability* and *sincerity*.⁴ Thus, in determining whether the evidence meets the *substantial grounds to believe* standard, the Chamber should verify whether hearsay evidence is independently corroborated by reliable evidence to confirm its truth and accuracy.⁵ The Chamber *should* be especially cautious when uncorroborated hearsay goes to the alleged acts and conduct of Mr. Gicheru that the OTP claims supports the charges.
2. Hearsay independently corroborated by reliable evidence can be considered. The operative aspect is the reliability of independent corroborating evidence. Thus, if the supposed corroborating evidence is unreliable because it too is based on hearsay, then corroboration is insufficiently established. Tape-recordings corroborate the fact that a conversation was had, but the substance of the recorded conversations remains uncorroborated hearsay, and thus no weight can or should be accorded to the substance of the conversation.
3. Evidence should not be assessed in isolation. A piece of evidence must be examined both for its intrinsic value and for its value when considered with other relevant and reliable evidence. Judge Geoffrey Henderson cogently explains why, “it makes good sense that

¹ [ICC-01/09-01/20-145](#) (“Prosecution Response”). This Reply as well as Annex A are filed as secret *per* Regulation 14 of the Regulations of the Registry and Regulation 23bis(1) of the Regulations of the Court. The Defence incorporates by reference the factual and legal basis for secret classification set out in [ICC-01/09-01/20-142](#).

² [ICC-01/09-01/20-143](#) (“Prosecution Submissions”).

³ [ICC-01/09-01/11-373](#), para. 74.

⁴ JUDGE RICHARD MAY AND MARIEKE WIERDA, INTERNATIONAL CRIMINAL EVIDENCE 115 (2002).

⁵ [ICC-01/09-01/11-373](#), para. 75; [ICC-02/11-01/15-1263-AnxB-Red](#), para. 46.

evidence should never be assessed in isolation,” even though “there is no requirement for corroboration” under the ICC framework.⁶ In evaluating corroborating evidence, he aptly informs:

- a. “Corroboration or corroborative evidence ... must itself be relevant and credible, and it must come from a source independent of any evidence which is to be supported by it.”⁷ “[I]t is important not to be distracted by the large amounts of evidence that have been submitted and to focus the analysis on evidence that is relevant to the fact and the issues under consideration. Corroboration only occurs when two pieces of evidence independently confirm the same fact.”⁸
 - b. Corroboration is “proposition-specific,” meaning “the fact that a witness’s testimony may have been corroborated in relation to one particular aspect of their evidence does not necessarily mean that other parts are therefore also more reliable or credible.”⁹
 - c. Corroboration “presupposes that the different items of evidence are independent of each other” and “requires the respective items of evidence to have some intrinsic probative value in their own right,” meaning, “if two items of evidence assert the same fact based on anonymous hearsay, the combined evidentiary weight remains negligible.”¹⁰
4. The Defence is not asserting that at the confirmation stage the standard of proof is *proof beyond a reasonable doubt*. Nor has it asserted that the standard is that of a *No Case to Answer* challenge. The OTP distorts the Defence’s argument. To reiterate, if the best evidence proffered by the OTP is so flimsy, so inadequate, and so unreliable that it will be wholly insufficient to survive a *No Case to Answer* challenge let alone meet the proof beyond a reasonable doubt standard, then the charges should not be confirmed. Bad evidence is bad evidence, and no amount of ventilating will make it any less unreliable.
 5. The OTP urged the Chamber *not* to perform a qualitative analysis.¹¹ It echoes this in its Written Submissions, claiming that the charges should be confirmed based on the “volume and variety of evidence,” which it claims “is simply too comprehensive, compelling and mutually reinforcing to be explained away by criticisms of the credibility or reliability of witnesses or alternative theories.”¹² Appreciably, the OTP does a *volte-face*, while also suggesting that the Chamber “must be aware of the limits as to the assessment of credibility that can and should be made at the confirmation stage.”¹³ Perhaps so, but apparent,

⁶ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 46.

⁷ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 46.

⁸ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 47.

⁹ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 48.

¹⁰ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 49.

¹¹ [ICC-01/09-01/20-125-Conf-AnxA-Corr3](#) (“DCC”), paras. 11-3.

¹² [Prosecution Submissions](#), para. 22.

¹³ [Prosecution Response](#), para. 6.

irreconcilable deficiencies cannot be ignored. Second-hand out-of-court statements offered as the truth *must* be viewed for what they are without any pretenses that somehow, miraculously, reliable corroborating evidence will come from the witnesses' mouth or some other source discoverable during its ongoing investigation or while presenting its case.

6. The OTP misdirects in claiming that there can be no doubt that a Pre-Trial Chamber is not in the same position as a Trial Chamber in reliably assessing the credibility of evidence.¹⁴ Perhaps, but not necessarily. Inherently flawed evidence is flawed. Insinuating that the Chamber is incapable of appreciating evidence that *prima facie* is incurably unreliable and thus worthless is absurd. The Chamber *can* and *should* assess the witnesses' credibility, even without their in-person testimony.¹⁵ The quality of the OTP's "selection of the strongest items of evidence presented" for confirmation¹⁶ will not improve at trial.
7. The OTP misapprehends the holdings in the cited trial management decisions, claiming that "a basic rule of fairness" requires witnesses to be confronted in cross-examination with any issues relating to their credibility so that they might have the opportunity to comment on them.¹⁷ The Trial Chambers did not hold that fairness requires Pre-Trial Chambers to refrain from assessing witnesses' credibility. The basic rule of fairness requires the cross-examining party put the material parts of its case before a witness on cross-examination if it is "inclined to make an issue out of them later in the case."¹⁸ This is commonly referred to as *putting your case to the witness*.¹⁹ This basic rule *does not* call for accepting a witness's evidence at face value or forbidding the opposing party from advancing adverse inferences or pointing out weaknesses that go to the reliability of the witness's evidence. Fairness is not accommodated by willful blindness.
8. The OTP misstates the Defence's arguments in claiming that the Defence "wishes the Chamber to reject the evidence of seven witnesses before they have even been heard by any Chamber by raising issues of credibility that, in most cases, have not even been put to them."²⁰ To the contrary, the Defence asserts – as the OTP now seems to agree that a qualitative assessment of the evidence is made at the confirmation stage – that unreliable and uncorroborated evidence should be viewed with caution and should not be afforded any appreciable weight.²¹ This is how evidence is generally considered and weighed and does

¹⁴ [Prosecution Response](#), para. 7.

¹⁵ [ICC-01/04-01/10-514](#), paras. 44-5.

¹⁶ [Prosecution Response](#), fn. 8.

¹⁷ [Prosecution Response](#), para. 8.

¹⁸ [ICC-01/09-01/11-900](#), para. 19; [ICC-01/12-01/18-789-AnxA](#), para. 51; [ICC-01/04-01/07-1665-Corr](#), para. 76; [ICC-01/04-02/06-619](#), para. 28; [ICC-01/04-02/06-1400-Red](#), para. 7.

¹⁹ *Prosecutor v. Krajišnik*, IT-00-39-A, [Appeals Judgment](#), 17 March 2009, para. 368.

²⁰ [Prosecution Response](#), para. 8.

²¹ [Prosecution Response](#), para. 6. [ICC-01/09-01/20-141](#) ("Defence Submissions"), paras. 5-8.

not violate the principle of *free evaluation of evidence*. Logically, inherently unreliable evidence *will not* metamorphose when considered with other evidence *unless* other credible evidence reliably corroborates and cures the inherent deficiencies.

9. The OTP misdirects in claiming that Article 70 cases “inevitably involve witnesses whose credibility is compromised to some extent” and that rejecting their evidence before it has been ventilated, tested, and assessed at trial “fl[ies] in the face of the proper administration of justice and reward[s] the responsible persons for successfully contaminating the evidence.”²² To not consider credibility issues of witnesses alleged to have been corruptly influenced, where their evidence is rife with inconsistencies, contradictions, and confabulations, and where a Trial Chamber has found certain witnesses to have been untruthful and unreliable, perverts the principle of *in dubio pro reo*.²³
10. The OTP misleads in claiming that the Defence “urges the Chamber to disregard entire categories of evidence by attaching labels” such as “hearsay” or “uncorroborated” or “unreliable.”²⁴ Labeling the evidence guides the Chamber in its qualitative analysis, identifying dubious and unreliable evidence that should not be relied on to meet the *substantial grounds to believe* standard *unless* independently corroborated by other reliable evidence.²⁵
11. The OTP misdirects in claiming that “the common law rule against hearsay does not apply” and “the concepts of direct and indirect evidence are more appropriate.”²⁶ Appreciating the civil law evidentiary principles inherent in the Rome Statute, the Defence correctly informed the Chamber. “Indirect evidence encompasses hearsay evidence.”²⁷ Also “more than one piece of indirect evidence, which has low probative value, is preferable to prove an allegation to the standard of substantial grounds to believe.”²⁸ Accordingly, after identifying reliable corroborating evidence, the Chamber *should* determine whether the hearsay evidence in question, “when viewed within the totality of evidence, is to be accorded sufficient probative value to substantiate a finding of the Chamber” in deciding on confirmation.²⁹
12. The OTP misleads in claiming that admissibility and probative value are to be determined under Article 69(4) of the Rome Statute, under which “[i]ndirect evidence may be freely

²² [Prosecution Response](#), para. 9.

²³ [ICC-01/05-01/08-424](#), para. 31. This time-honored principle is enshrined in Article 22(2) of the Rome Statute.

²⁴ [Prosecution Response](#), para. 10.

²⁵ Corroborating evidence “must itself be relevant and credible, and it must come from a source independent of any evidence which is to be supported by it.” [ICC-02/11-01/15-1263-AnxB-Red](#), para. 46.

²⁶ [Prosecution Response](#), para. 10.

²⁷ [ICC-01/09-01/11-373](#), para. 69.

²⁸ [ICC-01/09-01/11-373](#), para. 75.

²⁹ [ICC-01/09-01/11-373](#), para. 75.

assessed by the Chamber.”³⁰ While the Chamber is not prohibited from freely assessing hearsay evidence, in doing so it *must* consider the hearsay or indirect nature of the evidence in determining the appropriate weight in its decision.

13. The OTP misdirects in claiming that anonymous hearsay is admissible.³¹ Such evidence may be admissible but “should *only* be relied on to the extent it corroborates evidence or is corroborated by other evidence.”³²
14. The OTP misrepresents the Defence’s arguments in claiming that the *Ruto and Sang* confirmation decision “does not support the automatic rejection of hearsay evidence.”³³ This is a canard. Asserting that “[h]earsay evidence ‘is of low probative value’ and should not be used to prove allegations to the standard of substantial grounds to believe *unless* corroborated by other evidence,” accurately reflects ICC jurisprudence.³⁴
15. The OTP misreads the Defence’s arguments in claiming that it relies on authorities cited in paragraph 12 of the DCC in asserting that the Chamber should simply reject uncorroborated evidence.³⁵ Nonsense. The Defence presented circumstances where corroboration should be required: (a) when the evidence is hearsay; (b) when the evidence is anonymous hearsay; and (c) when the Chamber has concerns about the witness’s credibility.³⁶
16. The OTP ill-advisedly claims that while “corroboration is desirable and may in certain circumstances be necessary,” it is “not required that every fact in a witness’s testimony is corroborated” and “corroboration in certain material aspects may suffice, particularly where no contrary evidence is presented.”³⁷ The Chamber should be guided by the principles sagely articulated by Judge Henderson.³⁸
17. The OTP mischaracterizes the Defence’s arguments in claiming that it presents its arguments “as if it were equivalent to the standard of proof beyond reasonable doubt” and “speculates as to other possible inferences and theories as if raising reasonable doubt were sufficient.”³⁹ The Defence points to alternative plausible explanations to the circumstantial evidence offered by the OTP, which has the burden of proving its theories as to why the charges against Mr. Gicheru should be confirmed.
18. The OTP disingenuously claims that the Defence’s arguments based on the *No Case to Answer* standard are “misplaced and speculative,” because the procedure is not specifically

³⁰ [Prosecution Response](#), para. 10.

³¹ [Prosecution Response](#), para. 10.

³² [Defence Submissions](#), para. 8, citing [ICC-01/04-01/07-717](#), para. 140 (emphasis added).

³³ [Prosecution Response](#), para. 11.

³⁴ [Defence Submissions](#), para. 8, citing [ICC-01/09-01/11-373](#), para. 75 (emphasis added).

³⁵ [Prosecution Response](#), para. 12.

³⁶ [Defence Submissions](#), para. 8.

³⁷ [Prosecution Response](#), para. 12.

³⁸ *See supra*, para. 3.

³⁹ [Prosecution Response](#), para. 13.

recognized by the Court’s legal texts and the Trial Chamber may not permit it in this case.⁴⁰ In *Ruto and Sang*, the same lead OTP counsel in this case “submit[ed] that the Chamber has the authority under the Statute to entertain ‘no case to answer proceedings.’”⁴¹ The OTP did not appeal the Trial Chamber’s decisions on the *No Case to Answer* procedure in *Ruto and Sang*, nor contest its application at the ICC in *Gbagbo*.⁴² In qualitatively analyzing the evidence, the Chamber *should* consider whether it is sufficiently strong to overcome a *No Case to Answer* challenge, and possibly meet the *beyond a reasonable doubt* standard. To subject Mr. Gicheru to a trial when the evidence is knowingly unreliable and insufficient so that an acquittal is inevitable would be a profound travesty and a waste of ICC resources.

19. The OTP misleads in claiming that the Defence “assumes” that the evidence on which a *No Case to Answer* decision would be taken “would be identical to the evidence before the Chamber” because the OTP will have the opportunity to present its full case at trial and will continue investigating to supplement deficiencies.⁴³ The OTP has presented its “strongest items of evidence,” by its own claim.⁴⁴ Additional weaker evidence that the OTP may have would not bolster the quality of its strongest evidence, which, as the Defence shows, is unreliable.⁴⁵ Curiously, [REDACTED], with Mr. Gicheru surrendering to the ICC in November 2020, the OTP concedes that its case is deficient, admitting that its eight-year investigation is still ongoing, hoping to supplement its evidence. Bluntly, the OTP prays to find sufficient evidence for a conviction *if only* the Chamber would overlook the deficiencies in its evidence and its failure to meet the requisite standard of proof for confirmation.

20. The OTP misreads the Defence’s arguments in claiming that it “assert[ed] that the evidence of unavailable witnesses may not be used to prove GICHERU’s acts and conduct.”⁴⁶ Prior recorded statements going to the acts and conduct may be admissible, but reliance on them denies “Mr. Gicheru full enjoyment of his fair trial right of confrontation and denies the Chamber the opportunity to meaningfully assess the value of these witnesses’ evidence.”⁴⁷

⁴⁰ [Prosecution Response](#), para. 14.

⁴¹ [ICC-01/09-01/11-794](#), para. 7. The “authority to insert a ‘half-way’ procedure aimed at determining whether the Prosecution has presented a ‘case to answer’ derives ... from the general authority enshrined in Article 64(3)(a)” and “can be considered inherent in the powers of the Chamber under Articles 64(2) and 6(f).”

⁴² [ICC-02/11-01/15-1277-Red2](#), para. 126.

⁴³ [Prosecution Response](#), para. 14.

⁴⁴ [Prosecution Response](#), fn. 8.

⁴⁵ See *infra* paras. 28-94. See also [Defence Submissions](#), paras. 13-95.

⁴⁶ [Prosecution Response](#), para. 15.

⁴⁷ [Defence Submissions](#), para. 4(d).

B. The OTP Misreads and Mischaracterizes the Defence's Factual Submissions

21. [REDACTED].⁴⁸ [REDACTED]⁴⁹ [REDACTED].⁵⁰ [REDACTED].⁵¹
22. [REDACTED].⁵² [REDACTED].⁵³ [REDACTED].
23. [REDACTED].⁵⁴ [REDACTED].⁵⁵ [REDACTED]⁵⁶ [REDACTED].⁵⁷
24. [REDACTED].⁵⁸ [REDACTED]⁵⁹ [REDACTED],⁶⁰ [REDACTED].⁶¹ [REDACTED].⁶²
25. [REDACTED].⁶³ [REDACTED].⁶⁴
26. [REDACTED].⁶⁵ [REDACTED];⁶⁶ [REDACTED];⁶⁷ [REDACTED];⁶⁸ [REDACTED]⁶⁹
[REDACTED]⁷⁰ [REDACTED];⁷¹ [REDACTED].⁷² [REDACTED].
27. [REDACTED]⁷³ [REDACTED].⁷⁴ [REDACTED].

C. The OTP Misrepresents the Defence's Submissions on the Charges

28. **Mr. Gicheru did not corruptly influence P-397.** [REDACTED]⁷⁵ [REDACTED].⁷⁶
29. [REDACTED]⁷⁷ [REDACTED].⁷⁸

⁴⁸ [Prosecution Response](#), para. 17.

⁴⁹ [Defence Submissions](#), para. 4(h). [REDACTED]. See [Prosecution Response](#), para. 66, fn. 29.

⁵⁰ [Defence Submissions](#), para. 4(h).

⁵¹ [Defence Submissions](#), para. 4(c).

⁵² [Prosecution Response](#), para. 18.

⁵³ [DCC](#), para. 338.

⁵⁴ [Prosecution Response](#), para. 18.

⁵⁵ [REDACTED]. See [Defence Submissions](#), paras. 35-41, 49-57.

⁵⁶ [Prosecution Response](#), para. 18. [REDACTED].

⁵⁷ [REDACTED].. [KEN-OTP-0125-0434-R01](#) at 93-8.

⁵⁸ [Prosecution Response](#), para. 19.

⁵⁹ [KEN-OTP-0159-1641-R01](#), p. 1643.

⁶⁰ [KEN-OTP-0159-1641-R01](#), p. 1642.

⁶¹ [KEN-OTP-0160-0043](#). [REDACTED]..

⁶² *Contra* [Prosecution Response](#), para. 19.

⁶³ [Prosecution Response](#), para. 20(a).

⁶⁴ [REDACTED].

⁶⁵ [Prosecution Response](#), para. 20(b).

⁶⁶ [KEN-OTP-0080-1255](#); [KEN-OTP-0080-1260](#); KEN-OTP-0080-1267, paras. 4-5, 12; KEN-OTP-0027-0252; KEN-OTP-0112-0769, p. 0771-4.

⁶⁷ [KEN-OTP-0080-1260](#); KEN-OTP-0036-0079; KEN-OTP-0112-0769, p. 0771. See also KEN-OTP-0104-0899, p. 0901-2.

⁶⁸ [KEN-OTP-0147-2218-R01](#).

⁶⁹ [KEN-OTP-0103-3191-R01](#), p. 3192; [KEN-OTP-0094-0002-R01](#). See also KEN-OTP-0159-1900; KEN-OTP-0124-0313.

⁷⁰ [KEN-OTP-0103-3191-R01](#), p. 3191.

⁷¹ [KEN-OTP-0087-1274-R01](#), p. 1281; [KEN-OTP-0104-0719](#) at 120. See also [KEN-OTP-0115-0289](#) at 946-64.

⁷² [ICC-01/09-01/20-119](#).

⁷³ [Prosecution Response](#), para. 22.

⁷⁴ [Defence Submissions](#), paras. 31, 47, 55, 61, 66, 74.

⁷⁵ [Prosecution Response](#), para. 23.

⁷⁶ [Prosecution Response](#), para. 23, citing [Defence Submissions](#), para. 37.

⁷⁷ [Prosecution Response](#), para. 23.

⁷⁸ [Defence Submissions](#), para. 4(d).

30. [REDACTED].⁷⁹ [REDACTED],⁸⁰ [REDACTED].⁸¹ [REDACTED],⁸² [REDACTED].⁸³
[REDACTED].⁸⁴ [REDACTED].
31. [REDACTED].⁸⁵ [REDACTED].⁸⁶ [REDACTED].⁸⁷ [REDACTED].
32. [REDACTED].⁸⁸ [REDACTED],⁸⁹ [REDACTED],⁹⁰ [REDACTED].⁹¹ [REDACTED]⁹²
[REDACTED],⁹³ [REDACTED].
33. [REDACTED]⁹⁴ [REDACTED].⁹⁵ [REDACTED].
34. [REDACTED].⁹⁶ [REDACTED],⁹⁷ [REDACTED].⁹⁸ [REDACTED].⁹⁹ [REDACTED].
35. [REDACTED].¹⁰⁰ [REDACTED],¹⁰¹ [REDACTED].¹⁰²
36. [REDACTED]¹⁰³ [REDACTED].¹⁰⁴ [REDACTED]¹⁰⁵ [REDACTED]¹⁰⁶ [REDACTED]¹⁰⁷
37. [REDACTED].¹⁰⁸ [REDACTED]¹⁰⁹ [REDACTED].¹¹⁰ [REDACTED].¹¹¹
[REDACTED].¹¹²
38. [REDACTED].¹¹³ [REDACTED],¹¹⁴ [REDACTED]¹¹⁵

⁷⁹ [Prosecution Response](#), para. 24.

⁸⁰ [KEN-OTP-0150-0255-R01](#), paras. 42-4.

⁸¹ [Defence Submissions](#), para. 85.

⁸² [T-005](#), pp. 71, 73.

⁸³ [Defence Submissions](#), para. 47.

⁸⁴ [KEN-OTP-0143-0185](#); [KEN-OTP-0125-0248](#).

⁸⁵ [Prosecution Response](#), para. 25.

⁸⁶ [KEN-OTP-0159-0736](#) at 806-6, 817-29.

⁸⁷ [KEN-OTP-0129-0567-R01](#), p. 0569.

⁸⁸ [Prosecution Response](#), para. 25.

⁸⁹ [DCC](#), para. 376(g).

⁹⁰ [DCC](#), para. 484(b).

⁹¹ [DCC](#), para. 490(c).

⁹² [DCC](#), para. 498.

⁹³ [Prosecution Response](#), para. 25.

⁹⁴ [Prosecution Response](#), para. 26.

⁹⁵ [KEN-OTP-0124-0029](#).

⁹⁶ [Prosecution Response](#), para. 26.

⁹⁷ [KEN-OTP-0124-0030](#).

⁹⁸ *James Njorge Njuguna T/A/ J.N. Njuguna & Advocates Company v. National Bank of Kenya Ltd & 2 others*, [2018] eKLR, [E&L Appeal No. 18 of 2016](#).

⁹⁹ [KEN-OTP-0150-0255-R01](#), para. 68.

¹⁰⁰ [Prosecution Response](#), paras. 27-8.

¹⁰¹ [KEN-OTP-0139-0097](#); [KEN-OTP-0139-0095](#), p. 0096.

¹⁰² [Prosecution Response](#), para. 27.

¹⁰³ [Prosecution Response](#), para. 29.

¹⁰⁴ [Defence Submissions](#), para. 41.

¹⁰⁵ [KEN-OTP-0159-0795](#) at 300-5.

¹⁰⁶ [KEN-OTP-0159-0795](#) at 307-9, 311, 344.

¹⁰⁷ [KEN-OTP-0159-0795](#) at 315-6, 320-1.

¹⁰⁸ [Prosecution Response](#), para. 29.

¹⁰⁹ [KEN-OTP-0143-0185](#) at 112-8.

¹¹⁰ [KEN-OTP-0143-0185](#) at 121-30.

¹¹¹ [KEN-OTP-0143-0185](#) at 83-6, 157-61.

¹¹² *Contra* [Prosecution Response](#), para. 29.

¹¹³ [Prosecution Response](#), para. 30.

¹¹⁴ [KEN-OTP-0125-0248](#) at 287.

¹¹⁵ [KEN-OTP-0125-0248](#) at 287 *et seq.*

39. **Mr. Gicheru did not corruptly influence P-516.** [REDACTED].¹¹⁶ [REDACTED].¹¹⁷
 [REDACTED].¹¹⁸ [REDACTED].¹¹⁹ [REDACTED].¹²⁰ [REDACTED].¹²¹ [REDACTED].
 40. [REDACTED].¹²² [REDACTED].¹²³ [REDACTED].
 41. [REDACTED].¹²⁴ [REDACTED].¹²⁵ [REDACTED].¹²⁶ [REDACTED].¹²⁷
 [REDACTED].¹²⁸ [REDACTED].¹²⁹ [REDACTED].¹³⁰ [REDACTED].
 42. [REDACTED].¹³¹ [REDACTED].¹³²
 43. [REDACTED].¹³³ [REDACTED].¹³⁴ [REDACTED].¹³⁵ [REDACTED].¹³⁶ [REDACTED].¹³⁷
 44. [REDACTED].¹³⁸ [REDACTED].¹³⁹ [REDACTED].¹⁴⁰ [REDACTED].¹⁴¹ [REDACTED].¹⁴²
 [REDACTED].¹⁴³ [REDACTED].¹⁴⁴
 45. [REDACTED].¹⁴⁵ [REDACTED].¹⁴⁶ [REDACTED].¹⁴⁷ [REDACTED].
 46. [REDACTED].¹⁴⁸ [REDACTED].¹⁴⁹ [REDACTED].¹⁵⁰ [REDACTED].
 47. **Mr. Gicheru did not corruptly influence P-613.** [REDACTED].¹⁵¹ [REDACTED].

¹¹⁶ [Prosecution Response](#), para. 31.

¹¹⁷ [KEN-OTP-0125-0518-R01](#) at 821-2, 830-1, 837, 859-63, 898-9.

¹¹⁸ [KEN-OTP-0111-0162](#), para. 36.

¹¹⁹ [KEN-OTP-0102-0178](#), paras. 22-3.

¹²⁰ [KEN-OTP-0111-0140](#), para. 42.

¹²¹ [KEN-OTP-0150-0255-R01](#), para. 119.

¹²² [Prosecution Response](#), para. 32.

¹²³ [KEN-OTP-0125-0518-R01](#) at 821-63.

¹²⁴ [Prosecution Response](#), para. 33.

¹²⁵ [KEN-OTP-0111-0162](#), paras. 34-8 relating to [KEN-OTP-0118-1927](#) at 1945-51; [KEN-OTP-0111-0140](#), paras.

39-48 relating to [KEN-OTP-0132-0167](#).

¹²⁶ [KEN-OTP-0111-0162](#), para. 36; [KEN-OTP-0118-1927](#) at 630.

¹²⁷ [KEN-OTP-0118-1927](#) at 731.

¹²⁸ [KEN-OTP-0118-1927](#) at 733-4, 736.

¹²⁹ [KEN-OTP-0111-0162](#), para. 35.

¹³⁰ [KEN-OTP-0132-0167](#) at 293-300.

¹³¹ [Prosecution Response](#), para. 34.

¹³² *See supra*, para. 39.

¹³³ [Prosecution Response](#), para. 34.

¹³⁴ [T-005](#), pp. 71, 73.

¹³⁵ [T-004](#), pp. 15-6.

¹³⁶ [KEN-OTP-0150-0621-R01](#) at 55, 59, 145-69, 222-3.

¹³⁷ *See supra*, para. 39.

¹³⁸ [Prosecution Response](#), para. 35.

¹³⁹ [T-002](#), p. 47.

¹⁴⁰ [T-002](#), pp. 47-8.

¹⁴¹ [T-002](#), p. 48.

¹⁴² [T-002](#), p. 46.

¹⁴³ [T-002](#), p. 51.

¹⁴⁴ [T-002](#), pp. 46-8, 51.

¹⁴⁵ [Prosecution Response](#), para. 35.

¹⁴⁶ [KEN-OTP-0150-0817-R01](#) at 178-93.

¹⁴⁷ [KEN-OTP-0150-0706-R01](#) at 487-90.

¹⁴⁸ [Prosecution Response](#), para. 35.

¹⁴⁹ [T-003](#), p. 55 (emphasis added).

¹⁵⁰ *See e.g.*, [T-016](#), p. 63.

¹⁵¹ [Prosecution Response](#), para. 36.

48. [REDACTED].¹⁵² [REDACTED].¹⁵³ [REDACTED].¹⁵⁴ [REDACTED].¹⁵⁵ [REDACTED].
49. [REDACTED].¹⁵⁶ [REDACTED].¹⁵⁷ [REDACTED].¹⁵⁸
50. [REDACTED].¹⁵⁹ [REDACTED].¹⁶⁰ [REDACTED].¹⁶¹ [REDACTED].
51. [REDACTED].¹⁶² [REDACTED].
52. [REDACTED].¹⁶³ [REDACTED].¹⁶⁴ [REDACTED].
53. [REDACTED].¹⁶⁵ [REDACTED].¹⁶⁶ [REDACTED].¹⁶⁷
54. [REDACTED].¹⁶⁸ [REDACTED].¹⁶⁹ [REDACTED].¹⁷⁰
55. [REDACTED].¹⁷¹ [REDACTED].¹⁷² [REDACTED].¹⁷³ [REDACTED].¹⁷⁴
[REDACTED].¹⁷⁵ [REDACTED].¹⁷⁶ [REDACTED].¹⁷⁷ [REDACTED].
56. [REDACTED].¹⁷⁸ [REDACTED].¹⁷⁹ [REDACTED].¹⁸⁰ [REDACTED].¹⁸¹ [REDACTED].
57. [REDACTED].¹⁸² [REDACTED].
58. **Mr. Gicheru did not corruptly influence P-800.** [REDACTED].¹⁸³ [REDACTED].¹⁸⁴
[REDACTED].¹⁸⁵ [REDACTED].¹⁸⁶ [REDACTED].¹⁸⁷ [REDACTED].

¹⁵² [Prosecution Response](#), para. 36.

¹⁵³ [KEN-OTP-0111-0140](#), paras. 43, 54.

¹⁵⁴ [KEN-OTP-0129-0740](#) at 405-6.

¹⁵⁵ *See supra*, para. 2.

¹⁵⁶ [Prosecution Response](#), para. 36.

¹⁵⁷ [KEN-OTP-0117-1019-R01](#), paras. 21-2, 27; [KEN-OTP-0117-1060-R01](#), p. 1060.

¹⁵⁸ [KEN-OTP-0130-0507-R01](#), pp. 0514-36.

¹⁵⁹ [Prosecution Response](#), para. 37.

¹⁶⁰ [DCC](#), para. 138, citing [KEN-OTP-0106-0910](#), para. 22.

¹⁶¹ *See supra*, para. 41.

¹⁶² [Prosecution Response](#), para. 37.

¹⁶³ [Prosecution Response](#), para. 38.

¹⁶⁴ [ICC-01/09-01/11-2027](#) (Reasons of Judge Fremr), paras. 106-7.

¹⁶⁵ [Prosecution Response](#), para. 39.

¹⁶⁶ [Defence Submissions](#), paras. 22-3, analyzing [KEN-OTP-0117-1071](#) and [KEN-OTP-0107-0291](#).

¹⁶⁷ [Defence Submissions](#), para. 24, analyzing [KEN-OTP-0111-0162](#), para. 36; [KEN-OTP-0118-1927](#) at 1950-1.

¹⁶⁸ [Prosecution Response](#), para. 40.

¹⁶⁹ [Defence Submissions](#), para. 22; [KEN-OTP-0117-1071](#).

¹⁷⁰ [Defence Submissions](#), para. 23; [KEN-OTP-0107-0291](#).

¹⁷¹ [Prosecution Response](#), para. 41.

¹⁷² [Defence Submissions](#), paras. 24-5.

¹⁷³ [KEN-OTP-0118-1927](#) at 625-42 and 731, 733-4, 736.

¹⁷⁴ [Defence Submissions](#), para. 24.

¹⁷⁵ [DCC](#), para. 345, citing [KEN-OTP-0111-0162](#), para. 39; [KEN-OTP-0118-1927](#) at 1950-1.

¹⁷⁶ [KEN-OTP-0118-1927](#) at 596, 600.

¹⁷⁷ [Defence Submissions](#), para. 25 (emphasis added).

¹⁷⁸ [Prosecution Response](#), para. 43.

¹⁷⁹ *See e.g.*, [KEN-OTP-0106-0922](#), paras. 22-3 (21 June 2013); [KEN-OTP-0111-0162](#), para. 13 (14 July 2013); [KEN-OTP-0111-0557](#), para. 19 (24 July 2013).

¹⁸⁰ *See e.g.*, [KEN-OTP-0111-0557](#), para. 14 (24 July 2013).

¹⁸¹ [KEN-OTP-0115-0289](#) at 818.

¹⁸² [Prosecution Response](#), para. 44.

¹⁸³ [Prosecution Response](#), para. 45.

¹⁸⁴ [Defence Submissions](#), para. 52.

¹⁸⁵ [Defence Submissions](#), para. 53.

¹⁸⁶ [ICC-01/09-01/11-2027](#) (Reasons of Judge Fremr), para. 41.

¹⁸⁷ [ICC-01/09-01/11-2027](#) (Reasons of Judge Fremr), paras. 41, 43.

59. [REDACTED].¹⁸⁸ [REDACTED].¹⁸⁹ [REDACTED].¹⁹⁰ [REDACTED].¹⁹¹ [REDACTED].
60. [REDACTED].¹⁹² [REDACTED].¹⁹³ [REDACTED].¹⁹⁴ [REDACTED].¹⁹⁵
[REDACTED].¹⁹⁶ [REDACTED].¹⁹⁷ [REDACTED].
61. [REDACTED].¹⁹⁸ [REDACTED].¹⁹⁹ [REDACTED].²⁰⁰ [REDACTED].²⁰¹
62. [REDACTED].²⁰² [REDACTED].²⁰³ [REDACTED].²⁰⁴ [REDACTED].
63. [REDACTED].²⁰⁵ [REDACTED].²⁰⁶ [REDACTED].²⁰⁷ [REDACTED].²⁰⁸
[REDACTED].²⁰⁹ [REDACTED].²¹⁰ [REDACTED].
64. [REDACTED].²¹¹ [REDACTED].
65. [REDACTED].²¹² [REDACTED].²¹³ [REDACTED].²¹⁴
66. [REDACTED].²¹⁵ [REDACTED].²¹⁶ [REDACTED].²¹⁷
67. [REDACTED].²¹⁸ [REDACTED].²¹⁹ [REDACTED].²²⁰
68. [REDACTED].²²¹ [REDACTED].
69. [REDACTED].²²² [REDACTED].
70. [REDACTED].

¹⁸⁸ [Prosecution Response](#), para. 45.

¹⁸⁹ [KEN-OTP-0111-0140](#), para. 32.

¹⁹⁰ [KEN-OTP-0111-0140](#), para. 33.

¹⁹¹ [KEN-OTP-0111-0140](#), para. 33.

¹⁹² [Prosecution Response](#), para. 46.

¹⁹³ [KEN-OTP-0118-0137](#), paras. 15-6.

¹⁹⁴ [KEN-OTP-0118-0137](#), para. 15.

¹⁹⁵ [T-016](#), p. 66 (emphasis added).

¹⁹⁶ [KEN-OTP-0130-0507-R01](#) at 689-90.

¹⁹⁷ [KEN-OTP-0145-0594](#) at 599.

¹⁹⁸ [Prosecution Response](#), para. 47.

¹⁹⁹ [KEN-OTP-0135-0054](#) at 539-40.

²⁰⁰ [KEN-OTP-0135-0054](#) at 590-600.

²⁰¹ [KEN-OTP-0135-0103](#) at 83-9; [KEN-OTP-0135-0113](#) at 618-24, 667.

²⁰² [Prosecution Response](#), para. 47.

²⁰³ [KEN-OTP-0135-0103](#) at 196-7 (emphasis added).

²⁰⁴ [ICC-01/09-01/11-2027](#) (Reasons of Judge Fremr), para. 41.

²⁰⁵ [Prosecution Response](#), para. 48.

²⁰⁶ [Defence Submissions](#), para. 52.

²⁰⁷ [KEN-OTP-0116-0495-R01](#), p. 0496.

²⁰⁸ [KEN-OTP-0116-0495-R01](#), p. 0496.

²⁰⁹ [KEN-OTP-0116-0495-R01](#), p. 0496.

²¹⁰ [KEN-OTP-0116-0495-R01](#), p. 0496.

²¹¹ [Prosecution Response](#), para. 49.

²¹² [Prosecution Response](#), para. 49.

²¹³ [ICC-01/09-01/11-373](#), para. 75.

²¹⁴ [Defence Submissions](#), para. 8, citing [ICC-01/09-01/11-373](#), para. 75 (emphasis added).

²¹⁵ [Prosecution Response](#), para. 49.

²¹⁶ [Defence Submissions](#), paras. 68-74.

²¹⁷ *See supra*, para. 64.

²¹⁸ [Prosecution Response](#), para. 49.

²¹⁹ [ICC-01/09-01/11-2027](#) (Reasons of Judge Fremr), paras. 41, 43. *See also supra*, para. 58.

²²⁰ *See supra*, para. 62.

²²¹ [Prosecution Response](#), para. 50.

²²² [Prosecution Response](#), para. 51.

71. **Mr. Gicheru did not corruptly influence P-495.** [REDACTED].²²³ [REDACTED].²²⁴
[REDACTED].²²⁵ [REDACTED].
72. [REDACTED].²²⁶ [REDACTED].²²⁷ [REDACTED].²²⁸ [REDACTED].²²⁹
73. [REDACTED].²³⁰ [REDACTED].²³¹ [REDACTED].²³² [REDACTED].²³³ [REDACTED].²³⁴
74. [REDACTED].²³⁵ [REDACTED].²³⁶ [REDACTED].²³⁷
75. [REDACTED].²³⁸ [REDACTED].²³⁹
76. [REDACTED].²⁴⁰ [REDACTED].²⁴¹
77. [REDACTED].²⁴² [REDACTED].²⁴³
78. [REDACTED].²⁴⁴ [REDACTED].²⁴⁵ [REDACTED].²⁴⁶ [REDACTED].²⁴⁷ [REDACTED].²⁴⁸
[REDACTED].
79. [REDACTED].²⁴⁹ [REDACTED].²⁵⁰ [REDACTED].²⁵¹
80. [REDACTED].²⁵² [REDACTED].
81. **Mr. Gicheru did not corruptly influence P-536.** [REDACTED].²⁵³ [REDACTED].²⁵⁴
[REDACTED].
82. [REDACTED].²⁵⁵ [REDACTED].²⁵⁶

²²³ [Prosecution Response](#), para. 52.

²²⁴ [Defence Submissions](#), paras. 68-74.

²²⁵ [T-016](#), p. 63.

²²⁶ [Prosecution Response](#), para. 53, fn. 131.

²²⁷ [KEN-OTP-0129-0740](#) at 77-9.

²²⁸ [REDACTED]. [KEN-OTP-0159-0736](#) at 334-7.

²²⁹ [KEN-OTP-0129-0740](#) at 93.

²³⁰ [Prosecution Response](#), para. 53, citing [KEN-OTP-0129-0740](#) at 108-10, 192-200. [REDACTED].

²³¹ [KEN-OTP-0129-0740](#) at 108.

²³² [KEN-OTP-0130-0540-R01](#) at 471-3.

²³³ [T-016](#), p. 64.

²³⁴ [T-016](#), p. 63 (emphasis added).

²³⁵ [Prosecution Response](#), para. 53.

²³⁶ [Defence Submissions](#), paras. 68-74.

²³⁷ [T-016](#), p. 63.

²³⁸ [Prosecution Response](#), para. 45.

²³⁹ [KEN-OTP-0135-0113](#) at 810-9. [T-020](#), pp. 21, 24.

²⁴⁰ [Prosecution Response](#), para. 54.

²⁴¹ [T-016](#), p. 63.

²⁴² [Prosecution Response](#), para. 55.

²⁴³ [KEN-OTP-0130-0540-R01](#) at 339-51.

²⁴⁴ [Prosecution Response](#), para. 55.

²⁴⁵ [KEN-OTP-0130-0585](#) at 138.

²⁴⁶ [KEN-OTP-0145-0594](#).

²⁴⁷ [KEN-OTP-0145-0594](#) at 100-9.

²⁴⁸ [KEN-OTP-0145-0594](#) at 110.

²⁴⁹ [Prosecution Response](#), para. 56.

²⁵⁰ *Contra* [Prosecution Response](#), para. 56.

²⁵¹ *See supra*, para. 64.

²⁵² [Prosecution Response](#), para. 56, citing [ICC-01/09-01/11-1938-Corr-Red](#), para. 109.

²⁵³ [Prosecution Response](#), para. 57.

²⁵⁴ [Defence Submissions](#), para. 77.

²⁵⁵ [Prosecution Response](#), para. 57.

²⁵⁶ *See supra*, para. 81.

83. [REDACTED]²⁵⁷ [REDACTED].²⁵⁸
84. [REDACTED].²⁵⁹ [REDACTED].²⁶⁰
85. [REDACTED].²⁶¹ [REDACTED].²⁶² [REDACTED].²⁶³ [REDACTED].²⁶⁴ [REDACTED].
86. [REDACTED].²⁶⁵ [REDACTED].²⁶⁶ [REDACTED].²⁶⁷ [REDACTED].²⁶⁸
[REDACTED].²⁶⁹
87. **Mr. Gicheru did not corruptly influence P-341 or P-274.** [REDACTED].²⁷⁰
[REDACTED].²⁷¹ [REDACTED].²⁷² [REDACTED].²⁷³ [REDACTED].²⁷⁴
[REDACTED].²⁷⁵ [REDACTED].²⁷⁶
88. [REDACTED].²⁷⁷ [REDACTED].²⁷⁸ [REDACTED].²⁷⁹
89. [REDACTED].²⁸⁰ [REDACTED].²⁸¹ [REDACTED].²⁸² [REDACTED].²⁸³
[REDACTED].²⁸⁴ [REDACTED].²⁸⁵ [REDACTED].²⁸⁶
90. [REDACTED].²⁸⁷ [REDACTED].²⁸⁸
91. [REDACTED].²⁸⁹ [REDACTED].²⁹⁰ [REDACTED].²⁹¹ [REDACTED].²⁹² [REDACTED].

²⁵⁷ [Prosecution Response](#), paras. 58, 60.

²⁵⁸ *See supra*, para. 2.

²⁵⁹ [Prosecution Response](#), para. 58.

²⁶⁰ *See supra*, para. 81.

²⁶¹ [Prosecution Response](#), para. 59.

²⁶² [T-007](#); [T-008](#); [T-009](#); [T-010](#); [T-011](#); [T-012](#); [T-022](#).

²⁶³ [ICC-01/09-01/11-2027](#), para. 102.

²⁶⁴ [Defence Submissions](#), para. 78.

²⁶⁵ [Prosecution Response](#), para. 60.

²⁶⁶ [KEN-OTP-0114-0296](#) at 42-3.

²⁶⁷ [KEN-OTP-0114-0291](#) at 51.

²⁶⁸ [KEN-OTP-0114-0244](#) at 41-2.

²⁶⁹ *Contra* [Prosecution Response](#), para. 60.

²⁷⁰ [Prosecution Response](#), para. 61.

²⁷¹ [KEN-OTP-0147-1590-R01](#).

²⁷² [KEN-OTP-0147-1590-R01](#).

²⁷³ Because “the events described in the application[] fail[s] to meet one or more of the parameters” shaping the *Ruto and Sang* case. [ICC-01/09-01/11-249](#), para. 59(v).

²⁷⁴ [KEN-OTP-0150-0345](#).

²⁷⁵ *Contra* [Prosecution Response](#), para. 61 citing [KEN-OTP-0150-0255-R01](#), paras. 26-7; [KEN-OTP-0150-0285-R01](#).

²⁷⁶ *Contra* [Prosecution Response](#), para. 61 citing [KEN-OTP-0159-0986-R01](#), paras. 58-9.

²⁷⁷ [Prosecution Response](#), para. 62.

²⁷⁸ *See* [KEN-OTP-0150-0255-R01](#), paras. 36-53; [Defence Submissions](#), para. 85.

²⁷⁹ [KEN-OTP-0159-0986-R01](#), para. 62; [Defence Submissions](#), para. 93.

²⁸⁰ [Prosecution Response](#), para. 62.

²⁸¹ [ICC-02/11-01/15-1263-AnxB-Red](#), para. 46.

²⁸² [KEN-OTP-0159-0986-R01](#), paras. 50-1.

²⁸³ [KEN-OTP-0159-0986-R01](#), para. 52.

²⁸⁴ [KEN-OTP-0150-0255-R01](#), para. 134.

²⁸⁵ [KEN-OTP-0159-0986-R01](#), paras. 53-6.

²⁸⁶ [Defence Submissions](#), paras. 4(c), 95, 99, 104.

²⁸⁷ [Prosecution Response](#), para. 63.

²⁸⁸ [Defence Submissions](#), para. 87.

²⁸⁹ [Prosecution Response](#), para. 63.

²⁹⁰ [KEN-OTP-0147-2140-R01](#), p. 2140.

²⁹¹ [KEN-OTP-0150-0255-R01](#), paras. 29-30, 34. *See supra*, para. 26

²⁹² [Prosecution Response](#), para. 63.

92. [REDACTED]²⁹³ [REDACTED].²⁹⁴

93. [REDACTED]²⁹⁵ [REDACTED].²⁹⁶ [REDACTED].²⁹⁷

94. [REDACTED]²⁹⁸ [REDACTED].²⁹⁹ [REDACTED].³⁰⁰ [REDACTED],³⁰¹ [REDACTED].

II. CONCLUSION

95. As when the curtain is pulled back in the *Wizard of Oz* and the once fear-inducing wizard is revealed as a frightened, insecure man, pulling back the curtains on the OTP's case reveals its efforts to hoodwink the Chamber into relying on flawed, flimsy, and fallacious evidence unsupportive of the standard of proof. The OTP's DCC is awash with extraordinary revelations of uncorroborated, unobjective, and unreliable hearsay evidence. The OTP premises its claims that it has met its legal obligation and standard of proof in seeking the confirmation of charges having presented "cogent objective evidence" that is both "concrete and tangible." This premise is invalid.

96. The OTP urges the Chamber to confirm the charges based on evidence it knows to be qualitatively substandard, hoping, perhaps, to discover better evidence during its ongoing investigation, which, with the support of the residual weaker evidence it has at its disposal but not relied on for confirmation, would suffice in proving its case to the *beyond reasonable doubt* standard should the case go to trial. As if engaged in a parlor game charade, [REDACTED]:

[REDACTED].³⁰²

97. Reminiscent of Judge Henderson's observations elsewhere,³⁰³ *the OTP in an undisciplined manner lacking in rigor, presents evidence without applying any filter in terms of quality/and or relevance*, asking the Chamber to turn a blind eye, inviting it to predicate the confirmation of charges on unsound and erroneous findings of fact and a misapplication of the law. Incurably unreliable, second and third-hand evidence by discredited or opportunistic witnesses will not improve in quality at trial. Suggesting otherwise is a subterfuge. The Chamber should **DECLINE** to confirm the charges against Mr. Gicheru.

²⁹³ [Prosecution Response](#), para. 64.

²⁹⁴ [KEN-OTP-0150-0289-R01](#), p. 0290.

²⁹⁵ [Prosecution Response](#), para. 64.

²⁹⁶ [KEN-OTP-0150-0286-R01](#); [KEN-OTP-0150-0287-R01](#).

²⁹⁷ [KEN-OTP-0150-0288-R01](#).

²⁹⁸ [Prosecution Response](#), para. 65.

²⁹⁹ [KEN-OTP-0147-2140-R01](#), p. 2142.

³⁰⁰ *Contra* [Prosecution Response](#), para. 65.

³⁰¹ [KEN-OTP-0150-0255-R01](#), para. 17.

³⁰² [KEN-OTP-0159-0884](#), para. 20(c) (emphasis added).

³⁰³ [ICC-02/11-01/15-1172-Anx](#), para. 3.

Respectfully submitted, 18 May 2021,
In The Hague, the Netherlands.



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