

Annex 4

Public Redacted Version

From: Trial Chamber I Communications
Sent: 04 October 2023 16:38
To: Nicholls, Julian; Trial Chamber I Communications; Laucci, Cyril; Abd Al Rahman Prosecution Team; V47 Abd Al Rahman LRV Team
Cc: D31 Abd-Al-Rahman Defence Team; [REDACTED] Chamber Decisions Communication; Associate Legal Officer-Court Officer
Subject: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Dear colleagues,
Dear counsel,

In light of the calling order provided below by the Defence, it is unlikely that the Chamber will hear Ms Fiona Marsh during the first evidentiary block. The Chamber also notes the Prosecution's objections, and the information below that it intends to instruct an expert in preparation of the cross-examination of the expert.

The Chamber therefore instructs the Defence to call Ms Fiona Marsh during the following evidentiary block (13 November - 15 December).

Kind regards,

[REDACTED]
(on behalf of Trial Chamber I)

From: Nicholls, Julian [REDACTED]
Sent: 04 October 2023 14:34
To: Trial Chamber I Communications [REDACTED]; Laucci, Cyril
[REDACTED] Abd Al Rahman Prosecution Team [REDACTED] V47 Abd Al Rahman LRV Team [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]; [REDACTED]
[REDACTED]
Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Dear Trial Chamber I,
Dear colleagues,

The Prosecution intends to instruct an expert in preparation of its cross-examination of Ms Marsh. The Prosecution has already begun the process of retaining an expert for this purpose.

Best,

Julian

From: Trial Chamber I Communications [REDACTED]
Sent: 04 October 2023 14:25
To: Nicholls, Julian [REDACTED] Trial Chamber I Communications

[REDACTED] Laucci, Cyril [REDACTED] Abd Al Rahman Prosecution Team
[REDACTED]; V47 Abd Al Rahman LRV Team

Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]
[REDACTED]

Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Dear colleagues,
Dear counsel,

The Trial Chamber hereby instructs the Prosecution to indicate whether it will instruct its own expert in preparation for the cross-examination of expert Fiona Marsh.

Kind regards,

[REDACTED]
(on behalf of Trial Chamber I)

From: Nicholls, Julian [REDACTED]
Sent: 03 October 2023 11:58
To: Trial Chamber I Communications [REDACTED] Laucci, Cyril
[REDACTED] Abd Al Rahman Prosecution Team [REDACTED] V47 Abd Al
Rahman LRV Team [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]
[REDACTED]
Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Thank you Cyril.

Best,

Julian

From: Trial Chamber I Communications [REDACTED]
Sent: 03 October 2023 11:54
To: Laucci, Cyril [REDACTED] Trial Chamber I Communications [REDACTED]
[REDACTED]; Nicholls, Julian [REDACTED] Abd Al Rahman Prosecution Team
[REDACTED] V47 Abd Al Rahman LRV Team
[REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED] [REDACTED]
[REDACTED]
Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Thanks Cyrill.

From: Laucci, Cyril [REDACTED]
Sent: 03 October 2023 11:20
To: Trial Chamber I Communications [REDACTED] Nicholls, Julian
 [REDACTED] Abd Al Rahman Prosecution Team [REDACTED]; V47
 Abd Al Rahman LRV Team [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]
 [REDACTED]
Subject: Re: Order of appearance of Defence witnesses

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear [REDACTED]

OTP's input has no impact on the schedule. Please find some details below:

- 18/10: Opening statement (2 sessions); Appearance D6 (1 session)
- 19/10: Appearance D6 (cont) (2 sessions); Appearance D8 (1 session)
- 20/10: Appearance D8 (cont) (2 sessions); Appearance D11 (1 session)
- 23/10: appearance D11 (cont) (2 sessions); Appearance D16 (1 session)
- 24/10: appearance D16 (cont) (3 sessions)
- 25/10: appearance D16 (cont) (3 sessions)
- 26/10: appearance D16 (cont) (3 sessions)
- 27/10: appearance D16 (cont) (2 sessions)

This schedule provides one session left on Friday 27, which is a safe margin of security, should the abovementioned schedule be impacted by any (likely) delay. The Trial Chamber may also wish to dedicate the last session of Friday 27/10 to a status conference, in preparation for the 2nd block.

Best regards,

Cyril.

From: Trial Chamber I Communications [REDACTED]
Sent: Tuesday, October 3, 2023 10:58 AM
To: Nicholls, Julian [REDACTED] Laucci, Cyril [REDACTED]; Trial Chamber I Communications
 [REDACTED] Abd Al Rahman Prosecution Team
 [REDACTED]; V47 Abd Al Rahman LRV Team
 [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]
 [REDACTED]
Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Mr Laucci,

In light of the Prosecution's e-mail below (with estimates for cross-examination), could you please resend a proposed scheduling of Defence witnesses for 18-27 October. Please also calculate, to the extent possible, the approximate time the Defence will use for its opening statements.

Best regards,

From: Nicholls, Julian [REDACTED]
Sent: 03 October 2023 10:29
To: Laucci, Cyril [REDACTED] Trial Chamber I Communications [REDACTED]; Abd Al Rahman Prosecution Team [REDACTED]; V47 Abd Al Rahman LRV Team [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED]
Subject: RE: Order of appearance of Defence witnesses

[ICC] RESTRICTED

Dear Trial Chamber I,
Dear colleagues,

The disorganised approach of the Defence to the presentation of its case and the late disclosure of statements and order of witnesses is becoming increasingly prejudicial to the Prosecution's right for adequate time to prepare. The Prosecution notes that the *first* meeting on witness appearances with VWS was not held until yesterday. The Prosecution also notes that witnesses D-0006, D-0008 and D-0011 were listed as testifying *viva voce* in this block in The Hague although the Defence knew or should have known that they did not have passports.

First, the Prosecution objects to the inclusion of expert witness Fiona Marsh at such late notice; the Prosecution will be requesting additional materials which should be part of every expert witness' package.

Second, regarding D-0016, the Prosecution received his 44 page statement on Thursday evening, 28 October, but a number of items referenced in the statement were not provided. Some of these outstanding items were provided late yesterday evening, but a number remain outstanding.

At this stage the Prosecution anticipates 1-2 sessions each for its cross-examination of witnesses D-0016, D-0006, D-0008 and D-0011.

Best regards,

Julian

From: Laucci, Cyril [REDACTED]
Sent: 03 October 2023 09:51
To: Trial Chamber I Communications [REDACTED]; Abd Al Rahman Prosecution Team [REDACTED] V47 Abd Al Rahman LRV Team [REDACTED]
Cc: D31 Abd-Al-Rahman Defence Team [REDACTED] [REDACTED]
Subject: Order of appearance of Defence witnesses
Importance: High

[ICC] RESTRICTED

Honourable Judges, Dear Colleagues,

Yesterday, the Defence had its first meeting on witness appearance with VWU.

The outcome of this meeting is that it is already too late to arrange for Witness D-16's in-person appearance starting on 18/10, but his appearance can start on 23/10.

This leads me to reorganize the order of appearance of the Defence witnesses over the first block as follows:

- on 18-19-20/10, AVL appearance of Defence Witnesses D6, D8 and D11 from ████████: we wish these three witnesses could have appeared from The Hague, but they have no passport, the position of the Court is that it cannot issue a travel document for them and they thus cannot travel;
- on 23-27/10, in-person appearance of Defence witness D16.

We are still awaiting confirmation of the time OTP expects its cross-examination of Witness D-16 to take. My Examination-in-Chief should take 3 full days. In case we can anticipate additional room for another witness over that block, we may add to the list Expert Witness Fiona Marsh. This will depend on OTP's feedback on its cross-examination of Witness D-16.

Best regards,
Cyril Laucci.

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