

Annex 5

Public Redacted

From: Trial Chamber VI Communications
Sent: 10 November 2023 16:03
To: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV; Associate Legal Officer-Court Officer; Office of the Director DJSS
Cc: Trial Chamber VI Communications; Chamber Decisions Communication
Subject: RE: Prosecution Request for a Status Conference

[ICC] RESTRICTED

Dear Parties, participants and the Registry,

The Chamber has taken note of the Prosecution's email asking for information as to whether the medical examination of Mr Said has been conducted and requesting the Chamber to hold a status conference so that the Parties can be updated (see email dated 09.11.23 at 12:18). Furthermore, the Chamber has also taken note of the Defence's response (see email dated 09.11.23 at 15:05).

The Chamber is mindful of its obligations pursuant to article 64(2) of the Statute to ensure that the trial is fair and expeditious. In this regard, it is important to the Chamber that the proceedings progress in a manner that is fair to all parties and that the parties and participants have the necessary information to manage their cases effectively and efficiently. The Chamber is cognisant of the Prosecution's needs in this respect, particularly the need for it to be able to effectively manage its resources and fulfil its own obligations under the Statute.

At this stage, the Chamber wishes to notify the Parties and participants that, based on information it formally received on 9 November 2023, the medical examination of Mr Said is scheduled to take place on the 17 November 2023. This in turn will trigger the timeline set out in paragraphs 47-50 of decision ICC-01/14-01/21-630-SECRET-Red. This means that the Chamber expects the report of the independent experts to be filed by 5 December at the latest. Should this occur, the deadline for submission of the Parties' and participants' observations on the report may fall during the winter recess. For planning purposes, in the event that the deadline for the parties' and participants' observations falls between 27 December 2023 and 3 January 2024, the Chamber will extend the deadline to account for this.

Please be informed that, following receipt of the Parties' and participants observations, the Chamber will proceed as expeditiously as possible to reach a determination on the issue of Mr Said's fitness to stand trial.

Bearing this procedural calendar in mind and without prejudice to any determination that the Chamber may make in light of the report filed by the experts, the Chamber expects the Parties, participants and the Registry to be prepared to resume evidentiary hearings as soon as possible if the Chamber should determine that Mr Said is fit to stand trial. The Chamber is unable to provide more specific information at this time and, in the circumstances, it does not consider it necessary to hold a status conference. The Chamber will keep the parties and participants apprised of any relevant developments.

Kind regards,
Trial Chamber VI

From: Naouri, Jennifer <[REDACTED]>
Sent: 09 November 2023 15:05
To: Trial Chamber VI Communications <[REDACTED]>
Cc: OTP CAR IIA Communications <[REDACTED]> D33 Said Defence Team <[REDACTED]>; Said LRV Team OPCV <[REDACTED]>; Makwaia, Holo <[REDACTED]>
Subject: RE: Prosecution Request for a Status Conference

[ICC] RESTRICTED

Chère Chambre de première instance VI,

La Défense prend bonne note de la demande de l'Accusation.

La Défense relève que dans sa décision du 14 août 2023 nommant les experts (ICC-01/14-01/21-630-SECRET-Exp), la Chambre décidait d'une procédure par laquelle l'Accusation serait informée par la communication du rapport des experts - après éventuelles expurgations - et pourrait alors déposer des soumissions sur la teneur du rapport:

« 49. Thereafter, the Defence may propose any redactions to the Registry, together with justifications, within three days of notification of the Panel's report(s). The Registry shall then file a SECRET redacted version of the report(s) on the record as soon as practicable thereafter. In addition, the Registry shall file, as an additional SECRET ex parte Defence and Registry only annex, the Defence's justifications for any redactions. While the Chamber is mindful of Mr Said's right to medical privacy, redactions may not be applied to facts, conclusions or recommendations which relate to Mr Said's fitness to stand trial. The Prosecution and CLRV may submit requests to the Chamber to review the redactions applied by the Defence within two days of receiving the redacted version of the report if they are of the view that they make it impossible for them to make meaningful submissions. If such request(s) are made, the Chamber will then rule on the redactions to be applied to the report(s).

50. The parties and participants may then make submissions of up to 20 pages on the report(s) presented, the submissions of other parties or participants, and any other matter they wish for the Chamber to consider within 5 days after receiving the redacted versions of the Panel's report(s), either filed by the Registry or as decided by the Chamber, as applicable » (nous surlignons).

Dans ces conditions, la Défense estime que cette procédure prévoit l'information de l'Accusation en temps utile et qu'il n'existe pas d'utilité, à ce stade, d'organiser une conférence de mise en état.

Bien à vous,

Jennifer Naouri

From: Makwaia, Holo [REDACTED]
Sent: 09 November 2023 12:18
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED] >; D33 Said Defence Team [REDACTED] >; Said LRV Team OPCV <[REDACTED]>
Subject: Prosecution Request for a Status Conference

[ICC] RESTRICTED

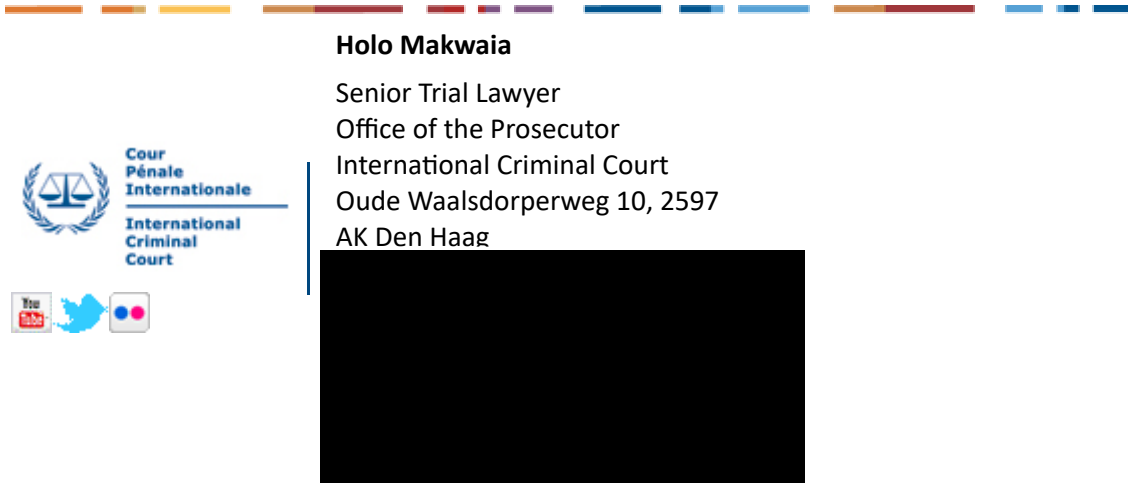
Dear Trial Chamber VI

1. Further to your Decision, ICC-01/14-01/21-630-SECRET-Red of 14 August 2023, the Prosecution respectfully requests to be notified if a medical examination of Mr Said ordered pursuant to rule 135 of the Rules, has been conducted. Fairness in criminal trials require that proceedings be conducted with full respect for the rights of the accused. An integral part of these rights under article 67(1)(d) is an accused's right to "be present at the trial". The Prosecution accepts that trial proceedings may be delayed if Mr Said is unable to be present at the trial on account of a medical condition.
2. However, to give full expression to the requirement "that a trial is fair and expeditious" under article 64(2), the Prosecution must also be in a position to respond, manage and adjust effectively to factors that impact proceedings. The Prosecution's role and responsibilities require that it is fully informed in order to ensure that it is in a position to deliver including by re-shaping its strategy if needed based on the state of health of the Accused. Information is also required to allow the Prosecution to discharge its obligations to victims and witnesses who have remained on standby for a significant period. Information relating to the progress

of the medical examination of Mr Said will further ensure that the Prosecution can adequately use its resources fairly and expeditiously and plan its work.

3. Thus the Prosecution requests the Chamber to hold a status conference pursuant to rule 132 of the Rules of Procedure and Evidence so that the Parties can be updated.

Kind regards,



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