



Annex to
Order for Submissions and Scheduling the Trial Preparation Conference

Public

DRAFT ORDER ON THE CONDUCT OF PROCEEDINGS

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I. PUBLIC CHARACTER OF PROCEEDINGS

1. In accordance with Article 40(4) of the Law,¹ Parties shall respect the public character of the proceedings. Legal argument by the Parties shall be heard in closed or private session only where strictly necessary in accordance with Rule 120.²

2. Parties shall endeavor to file all written submissions as public documents, and to confine confidential matters as much as possible to confidential or strictly confidential annexes.

3. Where a Party files a motion confidentially or strictly confidentially, it is presumed, until it is demonstrated to the contrary, that there is good cause for that status, and, pursuant to Rule 82(4), the opposing Party must respect that status until the Trial Panel issues an order altering that status. Parties shall promptly file, where possible, public redacted versions of submissions which are filed on a confidential or strictly confidential basis.

4. Parties are instructed to refrain as much as possible from filing submissions or annexes *ex parte*. The Trial Panel will exercise heightened scrutiny of reasons presented to justify *ex parte* filings.

II. WORKING LANGUAGE

5. The Trial Panel adopts the approach taken by the Single Judge in respect of the language of proceedings as specified in his Order of 29 October 2020 and determines that English shall be the working language for trial proceedings in the present case

¹ Any reference to "Article" in this order is a reference to a provision of the Law on Specialist Chambers and Specialist Prosecutor's Office.

² Any reference to "Rule" in this order is a reference to a provision of the Rules of Procedure and Evidence Before the Kosovo Specialist Chambers.

and that the parties should otherwise continue to comply with the directions contained in that Order.³

III. ATTITUDE TOWARDS THE TRIAL PANEL AND THE PARTIES

6. In accordance with Article 10 of the Code of Professional Conduct for Counsel and Prosecutors Before the Kosovo Specialist Chambers (“Code of Conduct”), Counsel and Prosecutors have a general duty of candour towards the Trial Panel.

7. Parties shall at all times demonstrate courtesy to the opposing Party, in and out of court. Personal comments relating to, and personal criticism of, an opposing Party will not be tolerated by the Trial Panel. Parties shall refrain from sharp tactics and shall as far as possible inform other participants in advance of oral and written applications they intend to make to the court.

8. The Trial Panel expects Parties to regularly discuss issues arising from the case among themselves with a view to finding solutions that do not require litigation or reduce the scope thereof.

9. Communications with the Judges are regulated by Article 11 of the Code of Conduct. Contacts by a Party with the Trial Panel should in general be copied to, or otherwise notified to, the opposing Party.

IV. MATTERS NOT IN DISPUTE

10. Consistent with Rule 95(4)(a),⁴ the Parties are instructed to consult with each other periodically before and during trial in order to determine whether facts material to their respective cases are in dispute. The Trial Panel shall inquire during trial, as the

³ F00060, Pre-Trial Judge, *Decision on Working Language*, 29 October 2020.

⁴ Rule 95(4)(a) requires that the Specialist Prosecutor’s Pre-Trial Brief include any admissions by the Defence, as well as a statement of matters that are not in dispute.

need arises, from the Parties to ascertain the extent to which a specific fact or issue is in dispute and to articulate in general terms the nature of that dispute.

11. In accordance with Rule 156, the Trial Panel shall not generally require evidence pertaining to facts and issues not in dispute between the Parties but may rely on agreement between the parties regarding such matters. Where a Party decides, nevertheless, to call evidence in respect of an agreed fact, it should do so efficiently.

12. The Trial Panel shall not generally permit questions to witnesses on matters which are not in dispute between the Parties.

V. AUTHENTICITY AND RELIABILITY OF PROPOSED EXHIBITS

13. In accordance with Rule 138(1) of the Rules, a Party shall not seek to tender or present evidence that it knows or suspects to be false. The Trial Panel expects the tendering Party to have taken reasonable steps to ensure that the evidence placed before the Panel is capable of reasonable belief for the purpose for which it is being offered. It is the Party's responsibility to be in a position to provide to the Trial Panel information regarding the origin of an exhibit when requested to do so by the Trial Panel and what steps were taken to verify that the information in question is capable of reasonable belief.

14. A Party which objects to an exhibit shall make its objection clear prior to or at the time that the tendering Party tenders the exhibit for admission in evidence.

VI. PRESENTATION AND ADMISSION OF EVIDENCE

15. A Party should only include on its lists of proposed witnesses and exhibits those witnesses who it intends to call at trial and those exhibits that it has a genuine intention to produce at trial. Any request to amend those lists, whether to add or

remove, shall be done at the earliest possible opportunity and, but for exceptional circumstances, sufficiently in advance of the commencement of the Party's case.

16. In evaluating which exhibits to tender for admission, the Trial Panel encourages the Parties to set for themselves a high threshold of evaluation so as to ensure that only evidence of high probative value is tendered. In accordance with Rule 138(1), the Trial Panel retains discretion to exclude evidence it considers to be only peripherally relevant or of little probative value. It is for the tendering Party to demonstrate the relevance and probative value of an exhibit, and the connection of an exhibit with the testimony of the witness through whom the Party seeks to tender the exhibit. Parties should only seek to tender exhibits through a witness that are clearly relevant to that witness's evidence.

17. In relation to lengthy documents or books of which only a part is relevant, the offering Party shall indicate the pages of the document, in the original language and in English, which it seeks to have admitted in evidence. Where the entire document is tendered in evidence, the Party should likewise endeavour to the greatest extent possible to identify those sections of the document on which it seeks to rely for the purpose of its case.

18. Under Rules 153-155, a Party tendering a witness statement into evidence shall read a concise summary of the witness's statement into the court record in public session. The summary shall be disclosed to the opposing Party and the Trial Panel at least three days before the statement is to be read out. The opposing Party shall raise any issue with the proposed summary as soon as practicable in advance of the statement being read in court.

19. An exhibit submitted during trial may in appropriate circumstances (such as matters of authenticity, translation or disclosure) be marked for identification pending the receipt of further information. Such proposed evidence is not admitted until the

Trial Panel makes a ruling on its admissibility, either orally or in writing, at which point it will be given an official exhibit number.

20. Untranslated documents used during the examination of a witness may either be marked for identification pending translation and further order of the Trial Panel, or denied admission.

21. When the Trial Panel admits an exhibit, the Registrar or the Presiding Judge shall assign an exhibit number to that exhibit. The Parties shall thereafter use the assigned exhibit number when referring to that exhibit.

VII. BAR TABLE MOTIONS

22. With a view to ensuring the expeditiousness of proceedings, Parties should consider the submission of evidence through bar table motions.

23. In any request for the admission of evidence from the bar table, the requesting Party shall:

- i. provide a short description of the proposed exhibit of which it seeks admission;
- ii. clearly specify the relevance of the proposed exhibit by reference to the relevant paragraph(s) of the Indictment and the probative value of each proposed exhibit; and
- iii. provide indicators of the proposed exhibit's authenticity, where the document does not on its face contain sufficient indicators of authenticity.

VIII. WITNESSES

A. PROTECTIVE MEASURES

24. Parties are instructed to file applications for protective measures as early as possible, and in any event sufficiently early to permit the opposing Parties to meaningfully respond.

25. Applications for protective measures shall clearly specify the protective measures sought, and shall indicate with specificity the circumstances objectively justifying the issuance of those protective measures.

26. Should a witness inform the presenting Party that he or she no longer requires some or all of the protective measures granted to him or her, the presenting Party shall immediately apply for variation or rescission of that witness's protective measures.

B. INTERVIEW OF WITNESSES BY OPPOSING PARTY

27. Where an opposing Party wishes to interview a witness who appears on the list of witnesses of the Party whose case is being presented ("presenting Party") prior to testimony, it shall notify the presenting Party at least ten days prior to the intended interview. The presenting Party shall ascertain in good faith if the witness consents to being interviewed by the opposing Party, and shall inform the witness of the possibility of having a representative of the presenting Party and/or a representative of the Witness Protection and Support Office present during the interview. In addition, where the Presenting Party believes that the safety and security of a witness may be at stake, or for other legitimate reason, it may request the Trial Panel to permit it to attend any meeting between the opposing Party and the witness in question, regardless of the witness's expressed preferences.

28. The Registry shall facilitate the preparation and conduct of any interview under this section. Any such interview shall be video-recorded by the Registry. A representative of the Registry shall be present during the entire duration of any such interview.

29. Once a witness has agreed to be interviewed, in order to ensure the efficient technical preparation of the interview process, the requesting Party shall inform the Registrar in writing of the following:

- i. the preferred dates for, and an estimate of the duration of, the interview;
- ii. whether protective measures have been ordered, requested or will be requested under Rule 80 of the Rules in relation to the witness and whether the witness has any special needs (e.g. health issues, presence of a support person);
- iii. the language which the witness is expected to use during the interview;
- iv. any information as to the persons expected to be present at the interview;
and
- v. any other information that may facilitate the preparation for the interview.

30. The Registrar may seek additional information, if required, to complete the assessment. The Panel shall consider whether measures recommended by the Witness Protection and Support Office shall apply during any interview.

31. Communications with the Registrar in respect of such an interview, other than filings, shall occur via the email address CMUCourtOfficers@scp-ks.org. The Court Management Unit shall process and include any written communication under this paragraph as correspondence in the case file in accordance with the Practice Direction on Files and Filings (KSC-BD-15).

32. Prior to the commencement of the interview, the Party conducting the interview shall also:

- i. ensure that the interview is conducted effectively and expeditiously;
- ii. prepare copies of all documents to be shown to the witness in a language which he or she understands together with an English translation to be provided to the opposing Party if the document is shown to the witness in another language;
- iii. refrain from talking to the witness outside of the timeframe during which the interview process is taking place and is being videoed, so that all statements and utterances made are duly recorded;
- iv. refrain from any action that could be regarded as threatening or provocative; and
- v. otherwise comply with any subsequent order made by the Trial Panel.

33. The Registry is instructed to facilitate the process by providing the following assistance:

- i. Provide necessary video-recording facilities and, if requested, a venue for the interview to take place;
- ii. Provide interpretation where necessary;
- iii. Ensure that a court officer, or another designated representative of the Registry, is present during the interview; and
- iv. Where requested by a Party or considered necessary by the Witness Protection and Support Office, make available a witness-support representative on site;

34. Prior to the commencement of the interview, the Registry representative shall advise the witness that the witness:

- i. is not required to participate in the interview and can decide to stop being interviewed at any point in time;

- ii. can refuse to answer questions, in particular if they are thought to be potentially self-incriminating;
- iii. can ask for a recess at any time; and
- iv. can ask to meet with the Witness Protection and Support Office representative at any time during the interview.

35. During the interview, the court officer, or another designated representative of the Registry, shall, in accordance with the Panel's order:

- i. ensure the presence of only the authorized individuals;
- ii. verify the identity of the witness;
- iii. ensure that all individuals present identify themselves on the record;
- iv. ensure that the interview is video-recorded;
- v. ensure the safety and well-being of the witness; and
- vi. ensure that the procedural elements of the interview is conducted in accordance with the Law, the Rules, the Order on the Conduct of Proceedings, and any subsequent order, decision, observations, or recommendations of the Panel.

36. The Parties shall respect the Registry's neutrality and shall refrain from seeking to involve its representative in the proceedings. The Registry will only provide support necessary to facilitate the process, as outlined above. Should the witness need to consult with a lawyer during the interview, the interview shall be suspended so that this can be arranged. The Registry shall inform the Defence Office, so that the necessary arrangements to assign Counsel to the witness may be made.

37. While documents may be shown to the witness during the interview, they shall not become part of the record until and unless admitted by the Trial Panel in the course of trial proceedings.

38. Following the completion of the interview, the Registry shall:

- i. prepare a memorandum at the end of the interview making a record of the process (indicating time, place, attendees, classification – i.e., public, confidential or strictly confidential – and any other relevant circumstance) and submit it to the Parties and the Trial Panel; and
- ii. prepare the video-recording of the session and submit copies thereof to the Parties and to the Trial Panel.

39. The video recording of the interview does not become part of the record unless admitted in evidence by the Trial Panel *proprio motu* or upon an application by a Party, and the conditions for its admission under the Rules are met. Where admission of such a video recording is sought, the Court Management Unit shall produce a written record of the interview together with the video recording of the interview.

C. SCHEDULING OF WITNESSES AND MATERIAL TO BE USED IN EXAMINATION

40. The presenting Party is instructed to present its case in a logical manner, and to notify the Trial Panel of the overall sequence in which it proposes to present its case. Where both Defence teams intend to call the same witness, Defence counsel shall consult with each other regarding the nature and scope of their case and endeavour to avoid repetitions in the presentation of their respective cases.

41. During trial, the presenting Party shall file, seven days in advance, a list of anticipated witnesses for each week, listed in the order in which they will be called. This list shall indicate: (a) the approximate time the calling Party estimates will be necessary for direct examination of each witness; (b) the (proposed) exhibits the presenting Party intends to use with each witness; (c) the issues, facts and circumstances in relation to which the witness will be examined; and (d) any applicable protective measures. No later than 24 hours before a witness is due to

testify, the calling Party shall upload to Legal Workflow its final presentation queue that includes all documents it intends to use with the witness.

42. Within 24 hours of notification of the aforementioned list of anticipated witnesses, each opposing Party shall file a notice with an estimate of the time it expects to take cross-examining each witness included on that weekly list. Where both Defence teams intend to cross-examine a witness, Defence counsel are expected to consult with each other regarding the nature and scope of their intended cross-examinations and provide a time estimate of their proposed cross-examination that avoids repetitive questions put to the witness by a prior cross-examiner.

43. It is the duty of the presenting Party to notify the Trial Panel, the opposing Party and the Registry as soon as possible of any changes to the order of witnesses and/or any amendment to the list of (proposed) exhibits that it intends to use with a witness. It is the presenting Party's responsibility to ensure that, at the conclusion of the evidence of a witness, there is another witness ready to begin to testify. If one of the proposed witnesses is not able to testify at the scheduled time or if there is no cross-examination of a witness, or if cross-examination proceeds faster than expected, the presenting Party shall ensure that an alternative witness can be called so as to avoid any delay in the proceedings.

44. Notwithstanding the obligation on the presenting Party to file lists of (proposed) exhibits it intends to use during direct examination of its witnesses, should the presenting Party become aware of any additional material, which it wishes to use during the direct examination of that witness, the presenting Party shall notify the opposing Party and the Trial Panel without delay, shall submit a final list of the material to be used no later than 24 hours prior to the testimony of the witness and shall upload any additional material to its presentation queue. If any of the additional material that the presenting Party wishes to use during the direct examination of the witness are not included on its exhibit list filed pursuant to Rule 102 (1)(b)(iii) or

Rule 104 (5)(c), the Party shall apply to the Trial Panel to amend its respective exhibit list.

45. A presentation queue listing all documents or other material to be used by the cross-examining Party must be released to the Trial Panel, the opposing Party and the Registry immediately upon the completion of the direct examination of that witness at the latest. This list shall indicate the exhibit number of any exhibit already admitted in evidence by the Trial Panel or the ERN of the document if not already admitted. The presentation queue shall also list any documents or other material not previously disclosed that form part of the list of documents or material for use during cross-examination. The opposing Party may then request a short adjournment in order to examine the new material.

46. Parties are instructed to seek agreement, where possible, regarding the order in which witnesses are to be called in the following two weeks. The Trial Panel reserves its right to order the Parties to amend the order in which they propose to call witnesses.

D. WITNESS PREPARATION

47. The Trial Panel shall permit witness preparation in accordance with the principles in this section.

48. The purpose of witness preparation is:

- i. To assist the witness who will be giving evidence during the proceedings:
 - (a) to help ensure that the witness gives relevant, accurate and structured testimony; and
 - (b) to help ensure the well-being of the witness.

- ii. For the calling Party to assess and clarify the witness's evidence in order to facilitate the focused, efficient and effective questioning of the witness during the proceedings.
49. Any attempt to influence a witness to testify to factual events that the witness did not observe or perceive is prohibited. Coaching, training or practising are not allowed.
50. Witness preparation is to be carried out in good faith and in keeping with the applicable standards of professional conduct and ethics.
51. Witness preparation is the responsibility of the calling Party, who shall determine practical arrangements in co-ordination with the Registry. The calling Party shall exercise particular care with regard to vulnerable witnesses, and the Registry should be available to assist with such witnesses if necessary.
52. When conducting the witness preparation, the lawyer should be accompanied by at least one other lawyer of the calling Party's team unless exceptional circumstances render this impossible.
53. If the witness so requests, his or her legal adviser shall be permitted to attend the preparation session.
54. Witness preparation may be conducted at the seat of the Specialist Chambers or at the place of testimony, if elsewhere, or any other place. In determining where to conduct witness preparation, the calling Party shall give due regard to the security of the witness.
55. The calling Party shall conduct its preparation session after witness statements have been taken, if applicable, and disclosed to the opposing Party.
56. Subject to the witness's availability and travel logistics, the calling Party shall endeavour to complete its preparation sessions as early as possible and, in any event, at least 24 hours before the witness's testimony is due to commence.

57. The calling Party shall keep a log of each preparation session which shall list the location and duration of the session, and the attendees at the session. After conducting a witness preparation session, the calling Party shall promptly provide the non-calling Parties and the Trial Panel with a copy of the log.

58. At least 24 hours before testimony, the calling Party shall provide the non-calling Parties and the Trial Panel with all of the information that is subject to the calling Party's disclosure obligations, including: a) any clarifications, changes or corrections made by the witness to his or her previous statements and the reasons advanced by the witness, if any, to justify the change or correction; and b) any new information obtained from the witness.

59. During preparation sessions, the questioning lawyer must:

- i. Reiterate the witness' obligation to tell the truth;
- ii. Explain the purpose of the preparation session;
- iii. Provide the witness with an opportunity to review his or her prior statements;
- iv. Provide the witness with an opportunity to confirm whether his or her prior statements are accurate and to explain any changes as necessary; and
- v. Indicate that if the witness is concerned that information could be self-incriminatory that he is permitted to seek the advice of a counsel before answering such questions;

60. During preparation sessions, the questioning lawyer shall not:

- i. Seek to influence the substance of the witness' answers, either directly or indirectly (including, for instance, by informing the witness of the type of evidence that would assist the calling Party's case, by suggesting whether or not the witness' answers are right, or leading the witness in an inappropriate way);

- ii. Train the witness or practice the questions and answers expected during the witness's in-court testimony so that the witness memorises those questions and answers;
- iii. Inform the witness of the evidence of other witnesses (including oral testimony and prior recorded statements of other witnesses); and
- iv. Disclose information that is subject to protective measures ordered by a Panel.

61. Where, as part of the investigation, a person was given a notification in accordance with Rule 43 and he or she is re-interviewed by the Specialist Prosecutor prior to giving evidence, the Specialist Prosecutor shall renew that notification where there remains a reasonable suspicion that the person committed or participated in the commission of a crime within the jurisdiction of the Specialist Chambers. Where an individual was interviewed during investigation without being given such notification, but the Specialist Prosecutor at the time of the preparation session has grounds to believe that the person committed or participated in the commission of a crime within the jurisdiction of the Specialist Chambers, the Specialist Prosecutor shall provide a Rule 43 notification to the person.

E. ORDER OF QUESTIONING

62. Where the Specialist Prosecutor calls a witness, the order of questioning the witness is:

- Prosecution
- Counsel for the Accused

63. Where counsel for an Accused calls a witness, the order of questioning the witness is:

- Counsel for the Accused

- Prosecution
- Remaining counsel for the Accused

64. The Presiding Judge may, when the interests of justice require, vary the order of questioning.

F. QUESTIONING OF WITNESSES

65. When questioning a witness, and when presenting material during questioning, a Party shall focus on the allegations set forth in the indictment, and valid lines of arguments which may be advanced by the Defence in response thereto. Parties shall avoid putting questions, or tendering exhibits, intended to advance a *tu quoque* defence or any other defence that has been ruled by the Panel to be invalid. Parties should, therefore, be prepared to provide an explanation, if requested by the Panel, of the basis and reason for any particular line of questioning.

66. A Party shall structure its questioning of a witness so that as much of it as possible may be heard in public session; questions requiring the Trial Panel to enter closed or private session shall to the extent possible be grouped together.

67. Cross-examination will be limited to matters set out in Rule 143(3). The cross-examining Party will use its best efforts to avoid unnecessary, irrelevant or repetitive questioning of the opposing Party's witnesses. Defence counsel are therefore advised to coordinate their cross examination with the other Defence counsel and, where possible, to designate one counsel to cross-examine a witness in respect of common issues in order to avoid repetitive questions.

68. The order in which the Defence teams conduct their cross-examination of Prosecution witnesses will follow the order in which their clients are listed in the Indictment, unless counsel agree otherwise among themselves.

69. The Trial Panel will not, at the present time, set a time limit on the cross-examining Party for the cross-examination of the opposing Party's witnesses. Parties are instructed to ensure, however, that they make effective use of time. The Trial Panel reserves the possibility of setting time-limits should this be necessary to guarantee the expeditiousness of proceedings.

70. The Trial Panel shall permit redirect examination in accordance with Rule 127(3) only on matters arising in cross-examination. Redirect examination on new matters shall only be permitted with the Trial Panel's leave.

71. The Trial Panel shall not generally permit re-cross-examination, but may do so where new material is introduced during re-direct examination. In such circumstances, a Party is entitled to further cross-examine the witness on that new material. Where questions put to a witness by the Trial Panel after cross-examination and re-direct examination raise entirely new matters, any Party may orally apply for leave to further examine the witness on those new matters.

72. Parties shall avoid lengthy or complicated questions that may confuse a witness, and shall put questions one by one in sequence to a witness, rather than in combined questions. Parties shall be mindful of the need for interpreters to interpret questions and answers so as to ensure that the record provides a complete and accurate account of both questions and answers.

73. In accordance with Rule 143(4) and 127(3), any Judge of the Trial Panel may question a witness at any time.

G. OBJECTIONS

74. Any Party wishing to object to a question during testimony of a witness shall stand and concisely state the objection. All objections, comments or other statements made in the courtroom shall be directed to the bench and not to opposing Counsel.

75. Unless otherwise decided, the Trial Panel shall rule on the objection orally and immediately.

76. Where a Party expects to challenge a witness' testimony or a proposed exhibit on the basis of a particularly complex factual or legal objection, it shall in principle submit to the other Parties and to the Trial Panel notice outlining broadly its objection at least one day prior to the date of the testimony or tendering of a proposed exhibit. The Panel will rule on the objection having heard the Parties.

77. The Trial Panel will generally hear and rule upon submissions from the Parties about the admissibility of each exhibit at the time that the exhibit is tendered in evidence. Where it is more practical to do so, the Trial Panel might also decide to postpone decisions on admission until the end of a witness's testimony.

H. USE OF PRIOR STATEMENTS

78. Where a witness does not have a clear recollection of relevant circumstances or testifies contrary to his or her prior statements, a prior witness statement or transcript may be used to refresh the memory of a witness whether or not it has been admitted in evidence. When presenting a witness with something that the witness has previously stated during testimony, or in a prior written statement, the Parties shall avoid paraphrasing what the witness said and shall quote directly from the transcript or prior statement, giving the relevant page and line numbers.

I. EXPERT WITNESSES

79. Pursuant to Rule 149 of the Rules, the calling Party shall file with the expert report a concise summary of the instructions provided by the calling Party to the expert before the expert produced its first draft of the report, and of any further instructions

provided by the calling Party to the expert after receipt of the first and any subsequent drafts of the report.

80. When an expert witness produces a report, that report may be admitted in evidence, subject to the requirements of relevance and probative value. Source material will be admitted upon request when justified.

81. Proposed expert witnesses shall strictly meet the requirement of expertise and impartiality. The Trial Panel shall not hear as expert witnesses individuals who possess no expertise which the Trial Panel does not possess, nor will it regard as experts individuals who have been employed as a staff member or as a team member by a Party.

82. Individuals who do not meet the above requirements can still be called as witnesses to give evidence about relevant facts and circumstances pertaining to the investigation of the case or to offer evidence in respect of documents tendered in evidence. The Trial Panel will not authorise such a witness to transgress on its fact-finding responsibilities.

83. The Party calling an expert is required to produce and disclose a final version of the expert's report before its case commences. Applications to amend or supplement a report or to provide an annex to it will only be authorised in exceptional circumstances. Parties are therefore instructed to ensure before their case commences that the report of any expert it intends to call is finalised and ready to be tendered in evidence as is.

84. The Trial Panel may direct the Defence teams to call any expert witnesses on their list of witnesses at an early stage of the presentation of the Defence case for each Accused.

85. Having heard the expert witnesses called by the Parties, the Trial Panel may *proprio motu* instruct and call additional expert witnesses in accordance with Rule 132

of the Rules of Procedure and Evidence, or direct the Parties to jointly instruct additional expert witnesses.

IX. STATUS CONFERENCES ON PROCEDURAL MATTERS

86. The Trial Panel wishes to ensure that trial proceedings focus primarily on the legal and factual issues relevant to the case against the Accused. While certain procedural issues might arise in the course of the proceedings (e.g. issues of disclosure, redaction or protective measures), the Trial Panel wishes to ensure that these do not unnecessarily prolong or delay the course of the trial. For that reason, the Trial Panel instructs the Parties to seek to resolve any such dispute before bringing it to the attention of the Trial Panel. The Trial Panel may also hold, as necessary and pursuant to Rule 116(5), status conferences on procedural matters to resolve any such issue that cannot be resolved by the Parties themselves. Where such an issue arises, the Parties shall immediately inform the Panel of its existence, general nature, and manner in which it is proposed to resolve it.

X. RECORDING OF USE OF TIME

87. A system for monitoring the use of time shall be established by the Registry, which will be responsible for recording time used during the evidence of each witness:

- i. by the calling Party for its direct examination, noting in each case whether part of the witness's evidence was given in the form of a statement under Rule 153 or Rule 154, and the length of their statement;
- ii. by each Party that conducts cross-examination;
- iii. by the relevant Party for re-direct examination;
- iv. by the Judges as result of putting questions to the witnesses; and

v. for all other matters, including procedural and administrative matters.

88. Regular reports on the use of time shall be compiled by the Registry in conjunction with the Trial Panel, which shall be provided periodically to the Parties.

89. The Panel shall continually monitor the use of time, and may make further orders, as it considers necessary, concerning the time used by the Prosecution or the Accused.

XI. FINAL TRIAL BRIEFS

90. Final Trial Briefs shall be filed in accordance with Rule 134(b) at a date set by the Trial Panel. All Parties' Final Trial Briefs will be filed on the same date.

91. Each Party shall specifically identify exhibits and sections of the transcript of the proceedings that it seeks to rely upon. No Party shall tactically withhold from its Final Trial Brief an argument in relation to an exhibit or section of the transcript in order to raise such argument in subsequent proceedings. Copies of references and authorities not readily available shall be filed as an annex together with the brief.

XII. LEGAL WORKFLOW

92. This trial will be conducted using Legal Workflow. The general principle is that all documents shall be handled through this system. Hard copies of a document may be used by a Party only where the Party has been unable, due to unforeseen circumstances, to upload a document into Legal Workflow or where its physical use in court is necessary.

93. When the use of hard copies of a document is permitted, the tendering Party is responsible for producing copies for the Trial Panel, witness, other Parties, Registry, and the interpreters.