

ANNEX 26
PUBLIC
REDACTED

From: Trial Chamber V Communications
Sent: 06 June 2022 10:27
To: VWS Legal
Cc: OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication; [REDACTED]; [REDACTED] Trial Chamber V Communications
Subject: Second order in relation to P-2475's witness familiarisation
Attachments: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear colleagues from the VWU,

The Chamber takes note of the explanations provided by the VWU and its acknowledgement that a 'clear deviation' from the applicable Witness Familiarisation Protocol, ICC-01/14-01/18-677-Anx1 (the 'Protocol') occurred during P-2475's familiarisation.

As stipulated in the Protocol, para. 3, the VWU should apply the procedures set out therein to all witnesses called to testify before the Court, 'unless otherwise ordered'.

The Chamber finds it concerning that the VWU deviated from the Protocol without any instruction from the Chamber to do so, as well as the VWU's report stating that this was 'not approved internally', indicating that there seem to be internal communication issues. Moreover, it is disappointing that this matter was not brought to the Chamber's attention by the VWU itself, but rather by the Defence during the hearing.

The Chamber expects the VWU to review its internal workings, in order to ensure strict adherence with the Protocol in place and to improve its communication with the Chamber. Should the VWU consider that exceptional circumstances warrant departure from the Protocol in future cases, it should seize the Chamber with an appropriate request.

Kind regards, TC V

From: [REDACTED]
Sent: 03 June 2022 11:33
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Managers [REDACTED] D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED] V44 LRV Team [REDACTED] V45 LRV Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED]; Chamber Decisions Communication [REDACTED]
Subject: RE: Order to provide comments regarding witness familiarisation of P-2475

Dear colleagues,

Following the instruction below from the Chamber, the VWU hereby attaches for the information of the Chamber, the message that was communicated to the parties upon request for clarification requested by the Defence of Yekatom.

Kind regards,

From: Trial Chamber V Communications [REDACTED]
Sent: 02 June 2022 14:02
To: VWS Legal [REDACTED]
Cc: OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Managers
[REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30
Ngaissona Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]
[REDACTED] V44 LRV Team [REDACTED] V45 LRV Team [REDACTED]
Associate Legal Officer-Court Officer [REDACTED] Chamber Decisions
Communication [REDACTED]
Subject: Order to provide comments regarding witness familiarisation of P-2475

Dear colleagues of the VWU,

Noting the information provided by P-2475 during his testimony on 30 May 2022 with regard to his witness familiarisation (*see* ICC-01/14-01/18-T-131-CONF-FRA, p. 34, line 5 - p. 36, line 22), the Single Judge instructs the VWU to provide its comments regarding the compliance with the applicable witness familiarisation protocol (ICC-01/14-01/18-677-Anx1) by 8 June 2022.

Kind regards, TC V

From: Oseredczuk, Isabelle
Sent: 30 May 2022 11:22
To: Vanderpuye, Kweku; [REDACTED]
Cc: D29 Yekatom Defence Team; [REDACTED]
Subject: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear colleagues,
 Dear counsels,

As previously reported, witness 2475 retained his statement from 19 to 23 of May. Exceptionally, the witness read his statement in his hotel for the following reasons. The witness could not enter the Court premises without a negative PCR test on the 19, therefore in order not to delay the process and ensure his appearance as scheduled, it was decided by the staff members in charge of his familiarisation that he would start reading his 46 pages statement in his hotel on the 19. Initially the plan was to take the statement from the witness in the evening (as in principle one day should have been enough to complete the reading) however the witness indicated that he did not finish his reading and the statement was not taken back by the staff member. The witness was to continue the reading at the premises of the Court after in his in-court familiarisation on the 20 but did not feel well enough to do so. He asked to read his statement from his hotel on the 20. Due to the slow reading, and some health issues the witness continued to read his statement on the following days. On the 23 the witness needed to consult a medical practitioner due to health complaint which also delayed the process.

During the whole process the witness was advised to keep his statement in the safe while he was at the hotel and not to leave with it outside the hotel room. The decision to let the witness read his statement at his hotel including during the weekend was taken by the staff members in charge in order not to have to postpone his appearance as scheduled.

Again, the VWU acknowledge that this is a clear deviation from the applicable Familiarisation protocol and followed practice that was not approved internally. All the VWU staff members will be reminded again of the applicable rules according to the Familiarisation protocol.

Kind regards,

[REDACTED]

From: Vanderpuye, Kweku [REDACTED]
Sent: 27 May 2022 16:54
To: [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] OTP CAR IIB Operations [REDACTED]
Subject: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)
Importance: High

Dear [REDACTED]

I think it would be in everyone's interest if indeed a report or recitation of the circumstances could be provided by VWS to the Parties and the Chamber promptly, as it appears from the exchanges below that the matter may be the subject of litigation on Monday morning before the witness's testimony.

Thanks for your consideration. Please let me know if there are any problems.

Kind regards,

Kweku

From: [REDACTED]
Sent: 27 May 2022 16:45
To: [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] Vanderpuye, Kweku
[REDACTED]
[REDACTED]
Subject: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear [REDACTED]

I take note of your message but unfortunately we do not have all the information that you are requesting. The VWU will inquire further and come back to you.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: 26 May 2022 17:58
To: [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] Vanderpuye, Kweku
[REDACTED]
Subject: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear [REDACTED]

Thank you for your response.

Could you kindly provide a full account as to how and what exactly occurred? Further, could you also confirm whether P-2475 was specifically informed that the statement was to remain on the premises?

Again, we would request an expedited and detailed response given the witness's imminent cross-examination. Thank you kindly in advance.

Best regards,

[REDACTED]

From: [REDACTED]
Sent: 25 May 2022 14:40
To: [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; Vanderpuye, Kweku
[REDACTED]
Subject: RE: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear [REDACTED]

We take note of your message.

There was a mistake done in this case as the witness retained his statement from 19 to 23 of May and we agree that this should not have happened as the process foreseen in the applicable dispositions of the familiarisation protocol should have been followed.

Kind regards,

■

From: ■
Sent: 24 May 2022 19:00
To: ■
Cc: D29 Yekatom Defence Team ■ Vanderpuye, Kweku
■
Subject: Enquiry regarding P-2475 statement sign-in form (CAR-OTP-2135-3160)

Dear Isabelle,

On behalf of the Yekatom Defence, I kindly request your assistance with the following enquiry in relation to P-2475's familiarisation procedure.

According to the 'Statement Sign in Form and Notes Statement Reading of P-2475' (see attached, with ERN CAR-OTP-2135-3160, at 3160), P-2475's statements were provided to him on 19 May 2022 at 10.09, and returned to VWU on 23 May 2022 at 8.00; there are no entries on the form between these two dates.

As you are aware, the Familiarisation Protocol (ICC-01/14-01/18-677-Anx1) adopted by Trial Chamber V envisages that a witness read their statements 'on the premises of the VWU' (para. 86), and that '[t]he VWU will keep the statement on its premises until the witness has finished testimony' (para. 88).

Given the information provided on the sign-in form, could you kindly confirm that the protocol was duly followed with respect to P-2475, and specifically that the statements provided to him remained on Court/VWU premises and were not taken by P-2475 to his place of accommodation?

Please be informed that the Prosecution has indicated that it would not object to our enquiring with you in relation to this matter.

As the Yekatom Defence expects to commence its cross-examination of P-2475 tomorrow afternoon, we would greatly appreciate an expedited response to this enquiry.

Thank you kindly in advance.

Best regards,

■
Legal Assistant, Yekatom Defence

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