

ANNEX 32
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REDACTED

From: Trial Chamber V Communications
Sent: 16 June 2022 17:59
To: [REDACTED] D30 Ngaissona Defence Team
Cc: D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; OTP CAR IIB Prosecution Team; Chamber Decisions Communication; Associate Legal Officer-Court Officer; Trial Chamber V Communications
Subject: Decision on the Ngaissona Defence Request to allow remote attendance for Associate Counsel Omissé-Namkeamaï

Dear Counsel,

The Chamber notes that, as acknowledged by the Ngaissona Defence, on 14 April 2022 it revoked the general authorisation to attend hearings remotely (the 'Decision') (see email from the Chamber, 14 April 2022, at 10:14), which had been given in March 2020 in light of the Coronavirus Pandemic and the related restrictions in place worldwide (see email from the Chamber, 12 March 2020, at 14:50). It further clarified that the Decision would be effective as of 25 April 2022 and that requests for exceptional remote attendance would henceforth be decided on a case-by-case basis.

Having assessed the circumstances specified by the Ngaissona Defence below, the Chamber sees no exceptional circumstances which warrant the authorisation of remote attendance. Notably, the Chamber fails to see why Mr Omissé-Namkeamaï is/was unable to travel to the Court to attend the testimony of the relevant witnesses during block 14 in person. In this context, the Chamber also recalls that the Decision was issued more than two months ago and that the Chamber has not received any information indicating that flights between the CAR and The Netherlands were unavailable during this period.

Moreover, the Chamber does not consider Mr Omissé-Namkeamaï's presence in all hearings necessary to ensure Mr Ngaissona's right to a fair trial. In this respect, it recalls that Mr Ngaissona's lead counsel Mr Knoops has been present during nearly all hearings so far and is equally expected to be present during the next block. In addition, Mr Ngaissona will be represented by the rest of his Defence team, including associate counsel Ms Proulx.

In light of the above, the Chamber rejects the below request.

Kind regards, TC V

From: [REDACTED]
Sent: 15 June 2022 18:32
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team <[REDACTED]>; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Prosecution Team [REDACTED]
Subject: Request to allow remote attendance for Associate Counsel

Dear Trial Chamber V,

In light of the recent decision of the Chamber regarding the ending of the general authorisation for remote participation (email from Chamber, 14 April 2022, at 10:14), the Defence for Mr Ngaissona respectfully requests that Counsel Omissé-Namkeamaï be allowed to remotely attend from the field office in Bangui the examination of the Prosecution witnesses that are central to the core issues against Mr Ngaissona, namely P-2658, P-1719, P-1077 and P-2556 of the upcoming block (Block 14).

The upcoming block is the longest block so far with seven witnesses scheduled to testify for a total of over 94 hours. As a result, and in light of the limited resources available to the defence, Counsel Omissé-Namkeamaï's presence in CAR during the past, current and upcoming month was and is necessary to conduct pre-planned missions substantial for the Defence's investigations. Moreover, Counsel Omissé-Namkeamaï's insight and unique expertise on CAR and the events that had occurred during the period related to the charges against Mr Ngaissona necessitates his remote presence for upcoming witnesses preparations and his simultaneous presence in CAR to conduct rapid last minute inquiries and investigations during Block 14. Hence, it is crucial that Counsel Omissé-Namkeamaï follows the entirety of the witness's examination in order to conduct the necessary investigations and inquiries substantial to Mr

Ngaissona's defence, both during their testimonies and after the completion of each testimony. Respectively, his remote presence is required to safeguard Mr Ngaissona's rights to a fair trial.

The use of Live Court is currently only restricted and available to use by certain computers available only in the Court's premises. As a result, the only way Counsel Omissé-Namkeamaï can efficiently follow the entirety of the testimony of the witnesses as well as be present in CAR to perform ongoing investigations is remotely via video link from the field office in Bangui. Especially that there is a high probability that several parts of the examinations of the witnesses by both the calling and non-calling parties will be conducted in private session. Furthermore, the COVID-19 situation in CAR is still a major issue as less than 15% of the population are fully vaccinated, which has resulted in the government applying strict travel measures. As a result, organising Counsel's trip from and to CAR would still take more time than normal and would require contact with numerous bodies external and internal to the court. Consequently, such planning would further hinder significant defence preparations and investigations.

The Defence requests that such limited authorisation be granted to attend the examination of only the 4 major witnesses which address events central to the core issues in the Prosecution's case against Mr Ngaissona. This is an exceptional request, limited in scope, in light of the Chamber's recent ruling on the end of remote participation and the importance of the witnesses testimony to the case against Mr Ngaissona. The Defence for Mr Ngaissona appreciates the consideration the Chamber is willing to give to this request.

Legal Intern - Defence for Mr Ngaissona

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