

ANNEX 38
PUBLIC
REDACTED

From: Trial Chamber V Communications
Sent: 22 June 2022 15:36
To: Dimitri, Mylene
Cc: OTP CAR IIB Operations; OTP CAR IIB Case Management; OTP CAR IIB Prosecution Team; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V45 LRV Team; V44 LRV Team; Vanderpuye, Kweku; [REDACTED] Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: RE: Request regarding P-1962's binder

Dear Counsel,

The Single Judge takes note of the Yekatom Defence's and the Ngaissona Defence's emails, requesting to send their respective lists of materials for the examination of P-1962 in the course of the weekend; as well as the Prosecution's response thereto, and the Yekatom Defence's reply (*see* emails below).

Noting the exceptional circumstances at hand, notably, the advancement of the testimony of P-1962, the Single Judge considers the Defence's requests reasonable. The requests are therefore granted.

Kind regards, TC V

From: Dimitri, Mylene [REDACTED]
Sent: 22 June 2022 15:12
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Prosecution Team [REDACTED] D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]; V44 LRV Team [REDACTED]; Vanderpuye, Kweku [REDACTED]
Subject: RE: Request regarding P-1962's binder

Dear Trial Chamber V,
Dear all,

The Defence finds it regrettable that the Prosecution is still "organising the list" of witness P-1962. Regardless of the change in the date of appearance of P-1962, the binder should have nevertheless been distributed at the latest this morning which corresponds to "at least five days before a witness commences" had he been testifying on Monday 27 June 2022.

Further, we note that effectively the Prosecution is opposing the Defence request despite now itself being effectively over 3.5 days late.

Kind regards,
Mylène Dimitri

From: Vanderpuye, Kweku [REDACTED]
Sent: 22 juin 2022 14:56

To: [REDACTED] Dimitri, Mylene [REDACTED] rial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management [REDACTED]
 [REDACTED] OTP CAR IIB Prosecution Team [REDACTED]
 [REDACTED]; D29 Yekatom Defence Team <[REDACTED]> D30 Ngaïssona Defence Team [REDACTED]
 [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]
 [REDACTED] V44 LRV Team [REDACTED]
Subject: RE: Request regarding P-1962's binder
Importance: High

Dear Trial Chamber V,

Dear All,

The Chamber's direction was to provide the list today, as soon as practicable. The Prosecution is organising the list, which will be provided today in accordance with the Chamber's direction. The arguments advanced are premature, and in event unsubstantiated. The P-1962's evidence, permitted under rule 68(3) provisionally has been known to the Defence for a substantial period. There is no prejudice that has been occasioned or likely to be. Thank you.

Kind regards,

Kweku Vanderpuye

From: [REDACTED]
Sent: 22 June 2022 14:52
To: Dimitri, Mylene [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management [REDACTED]
 [REDACTED] OTP CAR IIB Prosecution Team [REDACTED]
 [REDACTED] D29 Yekatom Defence Team [REDACTED] D30 Ngaïssona Defence Team [REDACTED]
 [REDACTED] V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]
 [REDACTED] V44 LRV Team [REDACTED]
Subject: RE: Request regarding P-1962's binder

Dear Trial Chamber V,

Dear All,

The Defence notes that despite the Chamber's ruling of this morning on the Prosecution's new schedule, the Defence has yet to receive the Prosecution's list of material for Witness P-1962 and any corrections to his statement.

This is unfortunate. The Defence is placed in a disadvantageous position where, in order to comply with the Initial Directions on the conduct of the proceedings, it would have to file its list of material by tomorrow morning, without having had time to review and analyse the Prosecution's list of material. This goes against the purpose of the deadlines established in the Initial direction on the conduct of the proceedings, which provides the Defence with four days after having received the Prosecution's list, before filing its own list.

The absence of a list provided by the Prosecution for witness P-1962 at this present moment (14:50), despite the Chamber's directions, is compounded by the fact that different members will be in the courtroom this afternoon for the testimony P-2453, whose testimony was advanced only yesterday. This change further limits the Defence resources to prepare for the upcoming testimony of P-1962 and provide a list of materials at such short notice.

Therefore, the Defence for Mr Ngaïssona joins and supports the Defence for Mr Yekatom's request to file its list of material in the course of the weekend.

Kind regards,

Legal Assistant, Defence for Mr Ngaissona

From: Dimitri, Mylene [REDACTED]
Sent: 22 June 2022 10:15
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management [REDACTED]
 [REDACTED] OTP CAR IIB Prosecution Team [REDACTED]
 [REDACTED]; D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED]
 [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]
 [REDACTED] V44 LRV Team [REDACTED]
Subject: Request regarding P-1962's binder

Dear Trial Chamber V,
 Dear Parties and Participants,

The Yekatom Defence takes note of the Chamber's ruling in relation to the new witness schedule communicated by the Prosecution on 21 June 2022 at 17:05.

According to the Initial Directions on the Conduct of the Proceedings, the Defence must send the list of documents they intend to use during questioning at least one day before the witness commences testifying (ICC-01/14-01/18-631, para. 42). In this case, following the rescheduling of P-1962's testimony, the Defence list of material must now be sent tomorrow morning at the latest.

Unfortunately, the Defence is not in a position to disclose it by tomorrow morning. Further, the Defence is yet to receive the Prosecution binder and needs to review it before making a final determination as to which documents to include. Further, while the Defence's intention was to provide the binder on Friday afternoon, pursuant to the Initial Directions, team members responsible for preparing the binder will be following P-1962's evidence in court, and as such will only be in a position to finalise the Defence binder after the hearing on Friday and in the course of the weekend. Given these exceptional circumstances, i.e. P-1962's expected testimony has been unexpectedly put forward to the 24 June 2022 while he was originally scheduled for 27 June 2022, the Defence respectfully requests leave to provide the Chamber, Parties and Participants with the list of items it intends to use in the course of the weekend.

Kind regards,
 Mylène Dimitri

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