

ANNEX 40

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 13 October 2022 11:24
To: [REDACTED]
Cc: OTP CAR IIB Case Management; OTP CAR IIB; [REDACTED]
 [REDACTED] D29 Yekatom Defence Team; D30
 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team;
 Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial
 Chamber V Communications
Subject: Order to assign counsel to P-2625

Dear Counsel, dear colleagues of the Registry,

The Chamber recalls that on 1 July 2020, in compliance with its 'Decision on the Prosecution Request to Summon a Witness' (8 January 2021, ICC-01/14-01/18-804-Conf), the Registry issued the summons for P-2625 to appear on 14 July 2021 'and any such other or further days as the Chamber may direct' (ICC-01/14-01/18-1044-Conf).

The Chamber further recalls that P-2625's appearance, however, was delayed because the summons could not be served until recently. In this regard, the Chamber notes that on 10 October 2022, the Prosecution informed the Chamber and the participants that it expected P-2625's appearance on 17 October 2022 to 'administer the solemn declaration [...] pending his prospective [...] appearance in the course of Block 17' (email from the Prosecution, 10 October 2022, at 19:43).

The Chamber further notes the latest information provided by the VWU, according to which the witness has agreed to appear before the Chamber on 17 October 2022 via video-link but 'will likely refuse to cooperate as reported by the Canadian authorities', and has also 'refused any contact with the VWU' in order to discuss security-related concerns.

In light of the possibility that the witness refuses to appear and/or testify, the Chamber considers it necessary for the witness to appear with the assistance of counsel. In this regard, the Chamber notes that Rule 171(5) of the Rules stipulates that a person refusing to comply with a direction by the Court 'shall be given an opportunity to be heard before a sanction for misconduct, as described in this rule, is imposed'. Accordingly, the Chamber orders the Registry to assign counsel to P-2625.

Kind regards, TC V

From: [REDACTED]
Sent: 12 October 2022 14:51
To: Trial Chamber V Communications [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; OTP CAR IIB Case
 Management [REDACTED]; OTP CAR IIB [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: Scheduling Notice P-2625

Dear colleagues,

The VWU would like to inform the Chamber about the latest developments regarding witness P-2625.

According to the latest information received by the Canadian authorities, the witness agreed to appear on Monday 17th October at 8 am local time, i. e 14 pm the Hague time, as indicated in the summons to appear.

The Canadian authorities informed the Registry that the witness has expressed his fear about testifying and manifested his intention to self-harm to avoid the court date. In this respect, although the witness has agreed to show-up, it appears that he will likely refuse to cooperate as reported by the Canadian authorities.

Although the witness mentioned to the Canadian authorities [REDACTED] should he testify, he has refused any contact with the VWU in order to discuss about his concerns. The witness has been informed via the Canadian authorities that the VWU is available to address any security or vulnerability issues. In that respect, the VWU will be present in Canada in the event the witness wants to address any of these issues before his appearance.

The VWU, if agreeable to the Chamber, proposes to start with witness P- 954 on the 17th in the morning as scheduled and to continue with his appearance as scheduled the following days. In the event witness P-2625 is willing to testify, the VWU in consultation with the Office of the Prosecutor will propose alternative dates for that purpose.

Kind regards,

