

ANNEX I PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 08 January 2019 11:41
To: [REDACTED]
Cc: Trial Chamber IX Communications; [REDACTED]
Subject: Decision on Defence Requests for Communications with Mental Health Experts [EX PARTE, Defence and Registry only]

Dear Defence Counsel:

Defence counsel do not require Chamber permission to speak with its own expert witnesses (ICC-02/04-01/15-504-Anx, para. 31). There are also procedures set by the Chamber and Detention Centre governing Mr Ongwen's visits, and visitors may meet with Mr Ongwen subject to these procedures.

The Chamber will not assess the potential privilege of these prospective communications. Should a potential privilege issue arise in the context of a discrete communication, this will be dealt with if and when it arises with the appropriate involvement of the other participants (e.g. ICC-02/04-01/15-691-Conf). In this regard, it is noted that the Defence's general disclosure obligations extend only to materials which it intends to use as evidence for the purposes of the confirmation hearing or at trial (Rule 78).

Best,

Trial Chamber IX

From: [REDACTED]
Sent: 08 January 2019 09:03
To: Trial Chamber IX Communications
Cc: [REDACTED]
Subject: EX PARTE, Chamber and Defence Only, Request for Privileged Meetings with Mr Ongwen

Dear Trial Chamber IX,

On behalf of Co-Counsels, I write to convey the following two requests following this morning's actions by Mr Ongwen, especially noting that the Defence does not have all information about the situation.

Firstly, the Defence requests to be able to communicate with its Experts in Mental Health ([REDACTED]) with privilege about this situation. It is the opinion of Co-Counsels that this recent event necessitates this in order to assess the situation, understand what steps need to be taken and provide informed advice to the Client.

Secondly, the Defence requests that its Mental Health Experts be allowed to speak directly with Mr Ongwen as soon as possible with Medical Privilege about this recent situation. The Defence requests this so the Experts may make a professional assessment of Mr Ongwen in order to assist those at the ICC-DC, who are responsible as first-line defenders.

Very best,

[REDACTED]