

ANNEX XLIII

PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 31 May 2019 09:06
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: URGENT: Defence Request for Reconsideration of the denial of VWU Recommendations for Protective Measures for D-0113
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Parties and Participants,
 Dear VWU,

The Chamber hereby rejects the Defence's request for reconsideration. The Chamber notes that the Defence had not requested previously any protective measures for D-113. Moreover, the Chamber notes that in its e-mail of 30 May 2019, the Defence fails to identify any objectively identifiable risk. In relation to this particularly witness, the Defence merely repeats the information provided already to the Chamber by the VWU in its assessment of 27 May 2019. The Chamber however reiterates that, if necessary, it may instruct limited use of private sessions on an exceptional basis.

Regards,

Trial Chamber IX

From: [REDACTED]
Sent: 30 May 2019 11:56
To: Trial Chamber IX Communications; [REDACTED]
Cc: [REDACTED]
Subject: URGENT: Defence Request for Reconsideration of the denial of VWU Recommendations for Protective Measures for D-0113
Importance: High

Dear Trial Chamber IX,

On behalf of Counsel, the Defence respectfully requests reconsideration of the decision by Trial Chamber IX ("Chamber") not to grant protective measures to D-0113. The Defence offers additional information not given by VWU.

Firstly, the Defence contends that the statement, "the VWU notes that there have been few allegations of minor anti-social behaviour towards Defence witnesses. These issues were investigated by the VWU and are under control" is not complete. Problems have also been encountered by Witnesses D-0121 and D-0136, with suspected issues with D-0083 (unconfirmed as of yet).

D-0136

Upon D-0136's return to Uganda, he encountered problems with a civil litigation issue. While the witness believes that it was political retaliation for his testimony, the Defence (along with VWU) feels that this may just be a coincidence.

D-0121D-0083

This is still in its infancy, but [REDACTED] states that he has heard "Radio Oyam" including D-0083 in its discussions on the trial. The Defence is looking into this issue, but with trial on all of one week until 19 July 2019, its resources in the field are stretched as it is.

REQUEST FOR D-0113

1) The Defence incorporates the VWU's email from Monday, 27 May 2019. The Defence notes that it has called two high-level political personalities to testify before the Court about their situations during 2002-2005.

2) Since his testimony, [REDACTED]

3) Since his testimony, [REDACTED]

[REDACTED] The incidents are being described by VWU as non-related to his testimony, which Counsel finds this extremely hard to believe.

4) Witness D-0083 finished his testimony one week ago, and radio chatter is already beginning. It is too early to tell what will happen, but considering what [REDACTED] reported to the Defence about his experience, the Defence expects similar problems with D-0083.

5) Witness D-0113 is a higher ranking community figure. [REDACTED]. While these incidents described above are not direct threats against him, these are problems which happened directly after witnesses

testified. While one cannot be sure of problems like this happening, VWU thought it prudent to recommend full protective measures and they were denied. With this further information, the Defence hopes that the Chamber will understand that the problems encountered [REDACTED]

6) With D-0113, the Defence contends that he would face the same problems after his testimony, [REDACTED]

7) As such, the Defence requests Face, Name and Voice distortion for D-0113, which includes private sessions during parts which would give identifying material of the witness.

Sincerest regards,

[REDACTED]
On behalf of Counsel
[REDACTED]

From: Trial Chamber IX Communications [REDACTED]

Sent: Monday, May 27, 2019 2:49 PM

To: [REDACTED]

Cc: [REDACTED]

Subject: RE: In-court protective measures for UGA-D26-P-0113

Dear VWU,

The Chamber notes the VWU assessment recommending in-court protective measures for witness D-113. The Chamber observes that the Defence did not request any protective measures for this witness. [REDACTED] but that the VWU assesses this as 'more a perception of potential danger rather than founded on any objective rationale'. The VWU has also stated it 'cannot present a compelling case for the provision of in-court protection measures'.

Understood the above circumstances and the fact that no objective threats have been identified, the Chamber considers that no protective measures are warranted for this witness pursuant to Article 68(2) of the Statute. The VWU is to ensure that the witness is aware of the applicable status to him, meaning that he will not receive any protective measures.

Nonetheless, the Chamber acknowledges the witness's concerns and may, if necessary, instruct limited use of private sessions on an exceptional basis.

Kind regards,
Trial Chamber IX

From: [REDACTED]

Sent: [REDACTED]

To: [REDACTED]

Cc: [REDACTED]

[REDACTED]

Subject: [REDACTED]

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