

ANNEX XV

PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 12 February 2019 10:25
To: [REDACTED]
Subject: [REDACTED] Trial Chamber IX Communications;
 RE: Ongwen Defence request in light of Decision 1443

Dear Defence,
 Dear parties,

The Chamber hereby denies granting suspensive effect for the deadline for disclosure prescribed by decision ICC-02/04-01/15-1443.

The Defence fails to specify the legal basis for its request and properly motivate its request. Further, irrespective of the possibility to grant such request on an exceptional basis, the Chamber is of the view that decision -1443 is not of the nature to warrant such an exceptional step. The Defence puts nothing forward in its request to justify this extraordinary step. The decision is of limited scope, no issues of security or question of central consequence are concerned.

Accordingly, the disclosure deadline set by decision -1443 is not suspended.

Kind regards,
 Trial Chamber IX

From: [REDACTED]
Sent: 11 February 2019 19:53
To: Trial Chamber IX Communications
Cc: [REDACTED]
 [REDACTED]

Subject: Ongwen Defence request in light of Decision 1443

Dear Trial Chamber IX,

On behalf of Co-Counsels [REDACTED] I write in respect of decision ICC-02/04-01/15-1443 ('Decision 1443'). Paragraph 12 thereof orders the Defence to provide the D-0133 material to the Prosecution and LRVs by Thursday, 14 February.

The Defence respectfully requests that the Trial Chamber suspend its order until a decision on the Defence intended request for leave to appeal Decision 1443 is issued.

Having regard to Article 82(1)(d), the Defence intends to seek leave to appeal Decision 1443 because it involves issues that would significantly affect the fair and expeditious conduct of the proceedings or the outcome of the trial, and thus warrants an immediate resolution by the Appeals Chamber. Provision of the D-0133 material to the Prosecution and LRVs before having a ruling on the Defence request for leave to appeal, or potentially Appeals Chamber's judgment, would render the procedure under Article 82(1)(d) moot.

By being effectively denied the right to seek leave to appeal under Article 82(1)(d), the Defence automatically loses its right to a remedy against Decision 1443 before the Appeals Chamber which defeats the purpose of the system of appellate review envisioned by the Statute in Part 8.

Kind regards,

[REDACTED]