

ANNEX 27

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Version

From: Trial Chamber V Communications
Sent: 14 June 2024 17:11
To: VWS Legal; D30 Ngaissona Defence Team; D29 Yekatom Defence Team; OTP CAR IIB; 'V44 LRV Team'; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Order on Ngaissona Defence Request for Reconsideration of ICC-01/14-01/18-2532-Conf

[ICC] RESTRICTED

Dear Counsel,
 dear colleagues from the Registry,

The Single Judge takes note of the request below.

He instructs the VWU to provide further observations on in-court protective measures by email on 18 June 2024, as soon as possible following its meeting with D30-4608, and latest by 15:30. Responses by the rest of participants, if any, are to be sent also by email by 16:30.

Kind regards, TC V

From: [REDACTED]
Sent: Friday, June 14, 2024 4:18 PM
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED] D29 Yekatom Defence Team [REDACTED] OTP CAR IIB [REDACTED] V44 LRV Team OPCV [REDACTED] V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]
Subject: D30 Urgent Defence Request for Reconsideration of ICC-01/14-01/18-2532-Conf
Importance: High

[ICC] RESTRICTED

Dear Trial Chamber V,

The Defence for Mr Ngaissona (the "Defence") hereby urgently requests reconsideration of the "Decision on the Ngaissona Defence Request for In-Court Protective Measures for D30-4608 (ICC-01/14-01/18-2532-Conf)" (the "Decision"), issued on 14 June 2024 . The urgency of the present request stems from the imminence of D30-4608's testimony, scheduled to begin on 19 June 2024.

The Defence respectfully seeks reconsideration of the Decision to prevent an injustice (ICC-01/14-01/18-2182, para. 8).

D30-4608, to whom in-court protective measures ("ICPMs") were denied :

- is a [REDACTED] in the Central African Republic;
- vastly [REDACTED];
- now resides in a remote part of [REDACTED];
- [REDACTED]; and

- [REDACTED].

The Chamber denied ICPMs on the basis that 1) [REDACTED] and 2) that he can [REDACTED] (ICC-01/14-01/18-2532-Conf, para. 7).

By contrast, the Defence recalls that P-1576 was granted ICPMs (ICC-01/14-01/18-1974-Conf.) when:

- [REDACTED];
- [REDACTED]; (ICC-01/14-01/18-1966-Conf, para 7)
- [REDACTED];
- [REDACTED]

In denying ICPMs to D30-4608, the Chamber interpreted the rules governing ICPMs more strictly than it has in the past. As such, the Defence requests the Chamber to reconsider its Decision and grant ICPMs to D30-4608 in order to guarantee Mr Ngaïssona's right to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses brought against him by the Prosecution, as enshrined under Article 67(1)(e).

Reconsideration of the Decision is further warranted by the lack of adherence by the Victims and Witnesses Unit ("VWU") to its normal practices. Indeed, the VWU did not talk with the witness about his security concerns, and thus submitted its recommendations without having conducted an assessment on the witness' security and safety (ICC-01/14-01/18-2529-Conf, para.3), in deviation of accustomed practices. In its Decision, the Chamber did not take into account the absence of such final assessment, which has shown to be crucial in providing new information that were determinative in the Chamber's previous decisions on requests for ICPMs (e.g., ICC-01/14-01/18-1779, para. 9; ICC-01/14-01/18-1514, paras 10-11; ICC-01/14-01/18-1245, para. 7).

As such, and alternatively, the Defence requests that a new assessment be made promptly upon the witness' arrival at the Court, thereby allowing the Chamber to revise its Decision in light of the assessment, keeping in mind that the witness may withdraw his cooperation with the Defence should he be obliged to testify publicly.

Kind regards,

[REDACTED]

On behalf of the Defence for Mr Ngaïssona

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