

ANNEX 4

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 08 May 2024 15:27
To: Trial Chamber V Communications; D30 Ngaissona Defence Team
Cc: D29 Yekatom Defence Team; OTP CAR IIB; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer; VWS Team Tasks; VWS Legal; Chamber Decisions Communication
Subject: Order regarding D30-4914's testimony

Dear counsel,

The Chamber takes note of the Ngaissona Defence's email below, indicating that D30-4914 whom it intended to call in person at headquarters, is unable to appear on 20-23 May 2024, as scheduled.

The Chamber recalls that in-person and video-link testimony are equal options to give *viva voce* testimony under the statutory framework. Moreover, it recalls that the deference given to the participants with regard to choosing the mode of testimony for their witnesses is subject to countervailing considerations, including the Chamber's overarching obligation to ensure a fair and expeditious trial (see Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, paras 29-31).

Noting that cancelling D30-4914's testimony would likely result in a gap in the hearing schedule, the Chamber orders that the witness be called via video-link.

Kind regards, TC V

From: [REDACTED]
Sent: Wednesday, May 8, 2024 12:32 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] Associate Legal Officer-Court Officer [REDACTED] VWS Team Tasks [REDACTED]
Subject: Update regarding D30-4914

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[ICC] RESTRICTED

Dear Trial Chamber,

Unfortunately, the Ngaissona defence has just been informed that it will not be possible to bring witness D30-4914 the week of 20 May as scheduled.

On 7 March 2024, the Defence duly requested the assistance of [REDACTED] [REDACTED] for D30-4914 to travel to the Hague. After several follow-ups, the Defence was informed late last week that receipt of [REDACTED] was imminent and would be received on time.

However, yesterday afternoon, [REDACTED] conveyed that while [REDACTED] had been received, it was for the wrong witness. Today, [REDACTED] followed up to confirm that we would not be receiving [REDACTED] this week, thereby making the travel of the witness impossible. Even after inquiry, it remains unclear why the wrong witness was prioritised over D30-4914.

The Defence is currently assessing its options, which are unfortunately limited given the last-minute change, the small number of remaining witnesses and their respective prior commitments. We want to reassure the Chamber that we will endeavour to find a solution, but unfortunately, we are not in a position to confirm whether we will be able to fill the week of 20 May.

We will keep the Chamber, parties and participants informed of any developments as soon as possible.

Kind regards,
[REDACTED], on behalf of Ngaissona Defence team

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