

ANNEX 20

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 18 September 2024 17:56
To: D29 Yekatom Defence Team; Associate Legal Officer-Court Officer; VWS Legal
Cc: Trial Chamber V Communications; Chamber Decisions Communication
Subject: Decision on the Yekatom Defence Request for access to recordings of in-court testimonies

Dear all,

The Single Judge takes note of the Yekatom Defence's request below.

He orders the Registry to provide observations thereon by 20 September 2024. These observations should discuss the logistics of arranging such access (including whether Registry staff would be present), any potential security concerns and proposals to address them, and clarify the Registry's past practice in this regard.

Finally, the Single Judge is not persuaded that this request warrants to be treated *ex parte* and will issue his decision as confidential. The Single Judge therefore instructs the Yekatom Defence to share its below request with all participants, or, if deemed necessary, provide a redacted version thereof, by tomorrow, 19 September 2024.

Kind regards, TC V

From: [REDACTED]
Sent: Tuesday, September 17, 2024 5:24 PM
To: Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] Associate Legal Officer-Court Officer
Subject: [Yekatom] Request for access to recordings of in-court testimonies

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[ICC] RESTRICTED

Dear Trial Chamber V,

The Yekatom Defence respectfully requests access, on the Court's premises, to a limited number of recordings (approximately 10) of protected witnesses' in-court testimonies without face or voice distortion.

We have already discussed this request to CMS, who indicated they could facilitate and organize this access. We will provide them with a detailed list of the recordings, which can be supplied upon request. Viewing the witness testimonies without face and voice distortion is crucial for the preparation of our final trial brief and closing arguments as their demeanour is a key factor we wish to address.

We believe our submissions should not be limited to the content of the transcripts alone. The manner in which the testimony was delivered, as well as the witnesses' demeanour, are important elements of credibility, which we aim to highlight to the Chamber with specific timestamp references.

The Defence recalls that Chambers have found in the past that the witness's demeanour was a factor taken into account to assess their evidence (see *Prosecutor v. Ongwen*, Trial Judgement, ICC-02/04-01/15/17-92-Red, para. 259 : Further factors which might also have an influence on the Chamber's assessment of evidence given by witnesses

who testified live are its immediate impression of the witness during their testimony, the witness's demeanour and bearing when testifying in court, willingness to respond to questions and spontaneity when responding). As of right now, the Defence is unable to provide any substantial submissions on the witness's demeanour of witnesses which benefited from face and voice distortion; the present request aim to provide the Chamber with the Defence's arguments as regard to those witnesses for its deliberation.

Please rest assured that the videos will remain on the Court's premises and will be handled with the utmost care and confidentiality. As such the Defence undertake to :

- Only view such in-court testimonies on the official computers situated in the Defence's office in HQ;
- Not allow any remote work on those videos;
- Not allow any download of the videos on a USB stick or similar devices;
- Not take any screenshot of the videos;
- Follow any other security measures suggested by CMS.

This request is made *ex parte* because it relates to the Defence's internal organisation.

We thank you for your consideration of this request and remain available to provide any further information the Chamber may require.

Kind regards,



Legal intern – Yekatom Defence

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