

ANNEX XXI

PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 14 June 2018 15:07
To: [REDACTED] Trial Chamber IX Communications; [REDACTED]
Cc: [REDACTED]
Subject: Further Order in Relation to Defence Witness Information Forms

Dear Defence Counsel:

The Chamber expresses its concern that the Defence made inconsistent submissions on its compliance – and in fact did not comply fully – with the Chamber's prior direction on witness information forms in Decision 1021, paras 6-7. More diligence is expected from the Defence when making representations to the Chamber, noting also the obligation to correct erroneous statements specified in Article 24(3) of the Code of Professional Conduct for counsel.

Pursuant to Regulation 29(1) of the Regulations of the Court, the Defence must make immediate efforts to be in a position to certify that all necessary WIFs have been completed and given to the VWU. By 16:00 on Monday, 2 July 2018, the Defence is ordered to formally file a submission either: (i) making the certification as previously ordered by the Chamber or (ii) explaining its efforts to complete all necessary WIFs, how many remain outstanding, and why they remain outstanding.

Best,

Trial Chamber IX

From: [REDACTED]
Sent: 14 June 2018 12:28
To: Trial Chamber IX Communications; [REDACTED]
Cc: [REDACTED]
Subject: RE: Direction to Provide Clarification on Defence Witness Information Forms

Dear Trial Chamber IX,

The Defence regrets the error contained in its filing 1272 and would like to explain that there was an internal miscommunication whilst completing its filing for its list of evidence. The Defence submits that the filing was not intended to mislead the Chamber or the parties and participants.

In filing 1273, paragraph 27, the Defence stated that it "*has been contacting witness and completing VWU forms these past months, but not all have been scheduled and filled at this time. The Defence apprised VWU of this during a meeting in the week beginning 21 May 2018 and noted that it should have all possible forms completed by the end of June 2018. The Defence aspires to complete this task and have any other requests for protective measures filed by then.*" This was the correct state of Defence preparation with regards to the WIF forms and the Defence regrets any confusion created by its various filings of 4 June 2018.

The Defence is currently working diligently to fill as many forms as possible, albeit with difficulties reaching their witnesses, who are involved in farming due to the season. As acknowledged in the email communication from VWU, the Defence aspires to have completed at least 10-15 more forms on Monday, 19 June 2018, and most by the end of the month.

The Defence has not met with D-0035, D-0036, D-0080, D-0134 and D-0135, pending assistance from the Government of Uganda pursuant to the various RFAs. The Defence will diligently apprise the VWU of progress made and certify to the Chamber as soon as practicable.

Sincerest regards,

[REDACTED]

From: Trial Chamber IX Communications [REDACTED]

Sent: Wednesday, June 13, 2018 4:20 PM

To: [REDACTED]

Cc: Trial Chamber IX Communications; [REDACTED]

Subject: Direction to Provide Clarification on Defence Witness Information Forms

Dear Defence Counsel:

The Chamber notes the certification the Defence gave in filing 1272 that all necessary witness information forms ('WIFs') have been completed and given to the VWU. In the message below, the VWU informs the Chamber that, despite the Defence's intention to call 62 *viva voce* witnesses, it has only received 17 WIFs to date.

Pursuant to Regulation 28 of the Regulations, the Defence is directed to explain this apparent discrepancy as soon as practicable.

Best,

Trial Chamber IX

From: [REDACTED]

Sent: 13 June 2018 15:18

To: Trial Chamber IX Communications

Cc: [REDACTED]

Subject: VWU information regarding WIFs received from the Defence Team

Dear colleagues,

The VWU refers to the "Defence notification of List of Witnesses and Evidence in compliance with ICC-02/04-01/15-1021 and Request for Leave to Add Witnesses its List of Witnesses and Materials to its List of Evidence", dated 4 June 2018, (ICC-02/04-01/15-1272-Conf-Red), in which the Defence listed 62 live witnesses (including 5 live experts witnesses) and stated that ***"...with the exception of the expert witnesses discussed below, the Defence certifies that all necessary witness information forms have been completed and given to the VWU."***

In that respect, the VWU finds it necessary to inform the Chamber that on 4 June 2018, the VWU had received 16 Witness Information Forms (WIFs) from the Ongwen Defence Team and as of today, 13 June 2018, in total of 17

WIFs have been received. Furthermore, on 12 June 2018, the Defence has indicated that they will provide the VWU with 10 to 15 WIFs on Monday, 19 June 2018.

The VWU remains in communication with the Defence to ensure that the remaining WIFs and relevant documentations of the witnesses to be provided timely, in order to start the preparation of witnesses as soon as possible.

The VWU remains at the disposal of the Chamber for any question.

Kind regards,

A small black rectangular box used to redact the signature of the sender.