

From: Trial Chamber V Communications
Sent: 11 January 2021 17:23
To: Ambach, Philipp; Trial Chamber V Communications
Cc: Office of the Director DJSS; [REDACTED]
Subject: RE: Communication to TC V regarding dual status transmission to OTP

Follow Up Flag: Follow up
Flag Status: Flagged

Dear colleagues from VPRS,

The Single Judge takes note of your request for further guidance.

With respect to your first query, the Single Judge instructs VPRS to provide the Prosecution with the full application of dual status witnesses. While appreciating the Registry's concerns in this regard, the Single Judge sees no reason why the Prosecution as the calling party should not be provided with the full application. In this context, the Single Judge recalls the Prosecution's obligation to apply redactions ensuring the safety of the dual status witnesses before disclosing the applications to the Defence.

As regards your second query, the Single Judge notes that the Chamber's directions pertaining to dual status witnesses apply only once a witness has been admitted as a victim by the Chamber. Accordingly, the Single Judge agrees with the Registry's proposed course of action. Nonetheless, the Registry is instructed to transmit applications of potential dual status witnesses to the Chamber as a matter of priority.

Kind regards, TC V

From: Ambach, Philipp
Sent: 08 January 2021 12:29
To: Trial Chamber V Communications
Cc: Office of the Director DJSS ; [REDACTED]
Subject: Communication to TC V regarding dual status transmission to OTP

Dear Trial Chamber V, dear Colleagues,

I am writing in regard of the Chamber's guidance on the issue of dual status victims in the *Yekatom/Ngaissona* case as per its email of 4 January 2021 (15:35h). In line with the Chamber's guidance, the VPRS will shortly transmit to the Prosecutor applications for participation of dual status individuals identified by the Common Legal Representatives in the case ("CLR").

Before doing so, it respectfully wishes to seek the Chamber's confirmation as to the amount of information which will be transmitted to the Prosecutor; second, the Registry seeks the Chamber's approval of the proposed way forward regarding an OTP witness that may become a dual status individual pursuant to the forthcoming batch of victim applications submitted to the Chamber later this month.

1) The application forms to be transmitted

As outlined in the Registry Observations on Aspects Related to the Admission of Victims for Participation in the Proceedings ([ICC-01/14-01/18-78](#), para. 10), [the current application form](#) contains 4 pages:

- The first two pages consist of the information necessary for the Chamber to make a determination on the victim's participatory status and for the victim to submit a valid request for reparations pursuant to rule 94(1) of Rules;
- The third and fourth pages of the application form capture the victim's personal information.

When transmitting the victims' applications in the case (to the Chamber in an unredacted version and to the parties with redactions, as appropriate), the VPRS systematically splits the application form. Pages one and two are transmitted, along with supporting documents as they may have been submitted by victims alongside the application. However, pages 3 and 4 are not transmitted; this is with a view to, *inter alia*, article 68(1) of the Statute and the Registry's efforts to keep all personal/identifying information of victims protected, but also since these pages contain information on legal representation and the person/organisation that helped the person filling in the form – information which is relevant for the organisation/transparency of Registry activities on the ground, but does not go to the relevant content of the victim's account as per rule 85 of the RPE.

In light of this, at the pre-trial stage, the VPRS transmitted to the Prosecutor the unredacted forms of dual status individuals as transmitted in the case (i.e. only the first two pages, and supporting documents to the relevant applications). Mindful of this and in light of the above, the Registry respectfully submits that, unless otherwise instructed by the Chamber, it will follow its approach from pre-trial, transmitting only the first two pages to the Prosecutor.

2) Group A application forms not yet submitted to the Chamber

In addition to dual status individuals *already accepted* by the Chamber as participating victims, the CLRs have also communicated to the VPRS the details of a witness whose application for participation has *not yet been submitted* by the VPRS to the Chamber. Said application was accepted at the pre-trial stage, but has not yet been transmitted at the trial stage following the VPRS review of applications against the revised scope of the charges. The VPRS has assessed this victim application as part of Group A (*ie* inside the scope of the case), and intends to transmit it in its upcoming transmission to the Chamber, scheduled for the end of this month.

The VPRS respectfully submits that, unless instructed otherwise by the Chamber, it will transmit this application to the Prosecutor as soon as the Chamber will have ruled on the victim status.

Kind regards,

Philipp Ambach
(VPRS)

From: Trial Chamber V Communications [REDACTED]
Sent: 04 January 2021 15:35
To: Massidda, Paolina [REDACTED]; Trial Chamber V Communications
 [REDACTED]
Cc: [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
Subject: RE: Request for the Chamber's guidance on the procedure for disclosure of applications of dual status individuals

Dear Ms Massidda,

The Single Judge takes note of the request for guidance below.

The Single Judge notes that the Chamber gave pertinent directions on the procedure for the disclosure of applications of dual status individuals in its 'Decision on Protocols at Trial' (ICC-01/14-01/18-677), specifically in the Dual Status Protocol (Annex 2) and the Redactions Protocol (Annex 3).

Nonetheless, for the sake of clarity, the Single Judge confirms that the Registry is expected to provide the Prosecution with the unredacted applications of dual status individuals. The Prosecution must subsequently effect disclosure pursuant to its statutory disclosure obligations and in line with the abovementioned protocols.

Kind regards, TC V

From: Massidda, Paolina [REDACTED]

Sent: 23 December 2020 09:48

To: Trial Chamber V Communications [REDACTED]

Cc: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Subject: Request for the Chamber's guidance on the procedure for disclosure of applications of dual status individuals

Importance: High

Dear All,

The Common Legal Representatives of the Victims of the other crimes respectfully seek the guidance of the Chamber in relation to the disclosure of applications of dual status individuals.

In this regards, the CLRV inform the Chamber that, following the last decision on victims' participation dated 11 December 2020, they have reviewed the list of victims authorised to participate against the latest list of witnesses provided by the Prosecution and identified 2 persons having dual status whose applications have not yet been disclosed in unredacted form to the Prosecution and in redacted form to the Defence.

The Pre-Trial Chamber ruled in the matter issuing the decision [ICC-01/14-01/18-339](#) providing a procedure in para. 11. Said procedure is not expressly covered by the Trial Chamber's order [ICC-01/14-01/18-459](#) (indicating that certain processes adopted by the Pre-Trial Chamber shall remain in place at the trial stage of the proceedings).

Therefore, the CLRV respectfully request the guidance of the Chamber on whether said procedure still apply. In the affirmative, the CLRV will request the VPRS to provide the unredacted applications to the Prosecution and they will liaise with the latter to consult for providing the redacted versions to the Defence as soon as possible.

Kind regards,
Paolina Massidda

#OPCV15

#VictimsMatter

Paolina Massidda



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Office of Public Counsel for Victims (OPCV)
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