

From: Trial Chamber V Communications
Sent: 25 February 2021 11:25
To: [REDACTED] Trial Chamber V Communications
Cc: OTP CAR IIB Case Management; OTP CAR IIB Managers; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Office of the Director DJSS; [REDACTED]; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; Chamber Decisions Communication
Subject: RE: Ngaissona Defence Request to Conduct In-Person Visits at the Detention Centre
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Counsel,

The Single Judge takes note of the below Ngaissona Defence (the 'Defence') email request, seeking authorisation to conduct three in-person legal visits at the Detention Centre prior to the commencement of the first evidentiary block (the 'Request').

Noting the specific circumstances set out in the Request, notably the Defence's intention to allow Mr Ngaissona to meet the new Defence team members and to discuss and seek instructions on material which cannot adequately be performed remotely, the Single Judge is satisfied that an exception to the Temporary Measures is warranted.

The Single Judge therefore authorises the Defence to conduct three in-person legal visits with its client at the Detention Centre prior to the commencement of the first evidentiary block, on such dates to be determined with the Registry.

As acknowledged by the Defence, any such visits are subject to the Registry's conditions as set out in the 'Registry Observations on the "Request for authorization of in-person legal visits with Mr. Yekatom" (ICC-01/14-01/18-816-Conf)', 18 January 2021, taking into account all required health measures.

Kind regards, TC V

From: [REDACTED]
Sent: 24 February 2021 16:50
To: Trial Chamber V Communications [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
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 [REDACTED]
 [REDACTED]
 [REDACTED]
Subject: Ngaissona Defence Request to Conduct In-Person Visits at the Detention Centre

Dear Trial Chamber V,

As indicated per your email of 22 February 2021, the Defence hereby respectfully presents its Request seeking authorisation to conduct in-person visits at the Detention Centre prior to the presentation of the first evidentiary bloc.

The Defence submits that specific circumstances warrant an exceptional departure from the Covid-19 Temporary Measures set out by the Detention Centre and the Registry on 19 March 2020 (DS/2020/023/PC/mc) and prolonged until 18 March 2021 (DS/2021/015/HT/mb) in order to safeguard Mr Ngaïssona's fair trial rights.

First, in-person legal visits are required to allow Mr Ngaïssona to meet with the Defence's newest team members, who will be actively participating in courtroom proceedings and cross-examining witnesses. On 23 February 2021, Ms Marie-Hélène Proulx was appointed Associate Counsel to represent Mr Ngaïssona. In addition, Ms Phoebe Oyugi, who was appointed Legal Assistant on 3 August 2020 and [REDACTED]

[REDACTED] Both team members have not met Mr Ngaïssona in person yet. Ms Proulx and Ms Oyugi will both conduct cross-examinations of witnesses. Therefore, a physical meeting before the start of the first witness bloc is necessary to allow them to meet Mr Ngaïssona in person, discuss the case and the preparation of the examinations of the first witnesses.

Second, the Defence submits that the preparation of the examinations of the first witnesses warrants physical meetings. The nature of the exhibits related to several witnesses prevents the Defence to conduct a proper analysis over the phone or through the Detention Centre Collaboration System (DCCS) and should rather be analysed in person. This material includes satellite images related to witness P-2193 who will come to testify as the third witness. The complexity of such images prevents the Defence from being able to receive clear and specific indications of certain locations from Mr Ngaïssona over the phone or on the DCCS. The preparation of the witnesses also requires displaying a large amount of photographs to Mr Ngaïssona that cannot be discussed efficiently over the phone. In addition, material related to insider witnesses need to be reviewed together with Mr Ngaïssona, who may testify in the first bloc, including Witness P-1847, which now appears to be #6 on the Prosecution's Order of witnesses, as communicated by the Prosecution in an email received yesterday.

Finally, Mr Ngaïssona has brought to the Defence's attention detention-related matters that require our assistance and has provided a lot of detailed material to the team by exporting them through the Detention Centre guards. This material is currently in the possession of the Defence and requires follow up with Mr Ngaïssona. Given again the complexity of these documents, which relate in part to Mr Ngaïssona's food purchases and ongoing litigation with the Registry, this material must be discussed in the presence of Mr Ngaïssona. A physical meeting is therefore necessary.

The Defence appreciates the arrangements made in the Detention Centre in order to conduct visits safely and without risks of contamination. The Defence will therefore follow the same sanitary precautions as during the visits conducted prior to the Opening Statement and stands ready to abide by any other sanitary measure.

In light of the above, the Defence respectfully requests that it be granted a reasonable number of three legal visits to perform the work detailed above and for Mr Ngaïssona to meet with Ms Proulx and Ms Oyugi prior to the examination of the first witnesses starting on 15 March 2021.

Kind regards,

[REDACTED]
Case Manager – Ngaïssona Defence

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