

From: Trial Chamber V Communications
Sent: 26 February 2021 09:27
To: [REDACTED]; Trial Chamber V Communications
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Chamber Decisions Communication
Subject: RE: Prosecution Request for Status Conference
Follow Up Flag: Follow up
Flag Status: Flagged

Dear counsel,

The Chamber takes note of the Prosecution's request (the 'Request') below.

Having considered the matters raised, and noting the Ngaissona Defence's position on the Request, the Chamber does not consider it necessary to hold a status conference at this point.

While the Chamber acknowledges that practical difficulties may arise in light of the Coronavirus Pandemic, the Chamber is of the view that the below matters cannot be addressed in the abstract and, as such, do not require the Chamber's involvement at this stage. Moreover, the Chamber notes that it has already given guidance in relation to a number of issues mentioned (see, in particular, email from the Chamber, 3 February 2021, at 10:52, regarding audio/visual link appearances; Decision on the Prosecution's Request to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure and Evidence, 6 May 2020, ICC-01/14-01/18-508, regarding the certification of Rule 68(2) statements; Decision on Protocols at Trial, 8 October 2020, ICC-01/14-01/18-677, rejecting the Prosecution's request for witness preparation).

The Prosecution is instructed to liaise with the other participants and the Registry on the below matters and jointly find solutions. As appropriate, the Prosecution may then approach the Chamber with concrete requests, providing specific information and indicating the outcome of the *inter partes* consultations.

Accordingly, the Chamber rejects the Request.

Kind regards, TC V

From: [REDACTED]
Sent: 25 February 2021 14:06
To: Trial Chamber V Communications [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
Subject: Prosecution Request for Status Conference

Dear Trial Chamber V,

Dear All,

Having completed the opening phase of the trial, there remain a number of challenges looming ahead concerning the presentation of evidence in addition to other procedural matters which would benefit from a Status Conference prior to the commencement of evidence in mid-March. The Prosecution considers that mid to late next week would be

preferable, should this suit the Chamber. We have vetted this proposal with the Parties and Participants, who have no objection to the holding of a Status Conference next week, excepting the Ngaissona Defence. The latter opposes a Status Conference, given the time remaining to prepare for upcoming witnesses, particularly given a change in the witness order. It further considers that the proposed matters could be better dealt with by way of written submissions.

By contrast, the Prosecution considers that a short Status Conference may be of substantial benefit to setting up as smooth and efficient a trial proceeding as can be had in the current situation. It is in the interests of everyone to be clear on the substantial and unprecedented challenges that lie ahead, and to understand and vet feasible contingencies in advance to avoid delay and the exploration of options only after foreseeable issues arise – as they will, inevitably.

Thus, the Prosecution believes that a number of challenges, but also potential contingencies, can be discussed regarding the following:

- Witness production of at the seat of the Court;
- Audio/visual link appearances (including the necessity of the Registry's presence *in situ*);
- Scheduling contingencies;
- Certification issues concerning rule 68(2) Statements;
- Live transcript access (e.g., for rule 74 Counsel or as a condition of testimony);
- Substantive contacts with witnesses prior to testimony; and
- Arrangements for the Parties'/Participants' remote participation

All of these, may be implicated to varying degrees by current restrictions related to the ongoing COVID-19 pandemic at the Court, as well as nationally and internationally. They will in turn affect the celerity and efficiency of the trial proceedings. The Parties and Participants may wish to raise other issues which may be beneficial for the Chamber to take cognizance of, and the Chamber may similarly wish to address specific matters to the Parties and Participants.

Given the nature of some concerns that the Prosecution would like to raise, we consider that it would be in the interests of the proceedings for representatives of VWS to be present, as well as whomever the Chamber may deem appropriate – for instance, members of the Registry's Legal Office in respect of Rule 68(2) procedures.

The Prosecution very much appreciates the Chamber's consideration.

Kind regards,

On behalf of Kweku Vanderpuye