

ANNEX 9

PUBLIC

From: Trial Chamber V Communications
Sent: 16 April 2021 16:46
To: Vanderpuye, Kweku
Cc: D30 Ngaissona Defence Team; [REDACTED] D29 Yekatom Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Operations; OTP CAR IIB Case Management; [REDACTED] Trial Chamber V Communications; Chamber Decisions Communication
Subject: RE: Request for Expeditious Ruling regarding the Familiarisation Package for P-0801

Dear Counsel,

The Single Judge takes note of the Prosecution's request below, seeking the Chamber's leave to include in the familiarisation package to be transmitted to P-0801, the audio files of the witness's interview with the Prosecution in 2018 (the 'Audio Recordings' and the 'Request', respectively).

The Single Judge considers the transcripts of the Audio Recordings to be sufficient for the purposes of refreshing the witness's memory in this particular instance (see Familiarisation Protocol, Annex 1 to the Decision on Protocols at Trial, 8 October 2020, ICC-01/14-01/18-677-Anx1, paras 80, 85).

Accordingly, the Chamber rejects the Request.

Kind regards, TC V

From: Vanderpuye, Kweku [REDACTED]
Sent: 15 April 2021 12:09
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; [REDACTED]; D29 Yekatom Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; [REDACTED] V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]; OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management [REDACTED]
Subject: Request for Expeditious Ruling regarding the Familiarisation Package for P-0801
Importance: High

Dear Trial Chamber,

The Prosecution seizes the Chamber in view of the Ngaissona Defence's objection to the provision of the audio files of P-0801's 2018 OTP interview. The audio files were not disclosed given the timely and full disclosure of the transcripts of the 2018 interview, which accords with the Chamber's Decision ICC-01/14-01/18-535, para. 11 – providing that rule 76 does not require the disclosure of a prior statement *in all forms*. The Parties' exchanges follow below.

The Prosecution considers that providing the audio files and the transcripts of the 2018 interview will facilitate the familiarisation process, allowing for alternative means for the witness to refresh his memory, consistent with the objectives of the Familiarisation Protocol (see, ICC-01/14-01/18-677-Anx1, para. 85). Further, the audio files of the 2018 interview fall within the express definition of a 'statement' provided at paragraphs 79-80 of the Familiarisation Protocol. Because the Defence have the full transcripts of the interview at their disposal, there is no colourable prejudice in the provision of the audio material to the witness in the context of the familiarisation process.

Accordingly, the Prosecution seeks the Chamber's intervention and expeditious ruling on this matter, such that the intended familiarisation package material can be transmitted to the VWS and timely provided to the witness.

Thank you for your consideration.

Kind regards,

Kweku Vanderpuye

From: Vanderpuye, Kweku [REDACTED] >
Sent: 15 April 2021 11:34
To: [REDACTED]; [REDACTED] D29 Yekatom Defence Team
 [REDACTED]; D30 Ngaissona Defence Team
 [REDACTED]; V44 LRV Team OPCV <[REDACTED]> V44 LRV Team
 [REDACTED]; V45 LRV Team [REDACTED]; [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
 [REDACTED]
Subject: RE: Familiarisation Package for P-0801
Importance: High

Dear Ms [REDACTED]

The reason for providing the audio files of the witness's own interview is to afford him an alternative means of refreshing his recollection for the purposes of his familiarisation, particularly in view of the lengthy transcripts of the interview. In any case, the Defence position is noted, and we will need to seize the Chamber accordingly. Thanks again.

Kind regards,

Kweku

From: [REDACTED]
Sent: 15 April 2021 11:25
To: Vanderpuye, Kweku [REDACTED]; D29
 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team
 [REDACTED]; V44 LRV Team OPCV [REDACTED] V44 LRV Team
 [REDACTED]; V45 LRV Team [REDACTED]; [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
 [REDACTED]
Subject: Re: Familiarisation Package for P-0801

Dear Mr Vanderpuye,

Thank you for clarifying that items n. 1-5 are the audios of P-0801's interview. Nonetheless, we oppose to the transmission of said items to the witness, given that they were not previously disclosed. Since, as you pointed out, these items are only duplicative of the transcripts of P-0801's interview, the transcripts should be sufficient for the witness to familiarise with his prior statement in advance of his testimony.

Thank you for your cooperation.

Kind regards,

[REDACTED]

Case manager - Ngaissona Defence

From: Vanderpuye, Kweku [REDACTED]
Sent: Wednesday, April 14, 2021 1:53 PM
To: [REDACTED]; [REDACTED]; D29 Yekatom Defence Team
[REDACTED] D30 Ngaissona Defence Team
[REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team
[REDACTED]; V45 LRV Team [REDACTED]; [REDACTED] >
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
[REDACTED]
Subject: RE: Familiarisation Package for P-0801

Dear [REDACTED]

Thank you for your email [REDACTED] is not in today. Unfortunately, the 'description' of the audio material was not clearer in the Ringtail generated list.

Note however, that items 1-5 (CAR-OTP-P-0801 Audio Interview) comprise the audio files underlying the transcripts of the witness's 2018 OTP interview indicated at items 6-37. Effectively, the transcripts are duplicative. As you know, the Chamber has previously ruled that rule 76(3) does not mandate disclosure of a statements in all forms, should it exist in more than one (*see ICC-01/14-01/18-535*, para. 11).

Please let us know if you have any further questions or concerns. Thanks again for your cooperation.

Kind regards,

Kweku

From: [REDACTED]
Sent: 14 April 2021 13:22
To: [REDACTED]; D29 Yekatom Defence Team
[REDACTED] D30 Ngaissona Defence Team
[REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team
[REDACTED] V45 LRV Team [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
[REDACTED]
Subject: RE: Familiarisation Package for P-0801

Dear [REDACTED],

Thank you for transmitting the familiarisation package for P-0801. While we have no issue with documents n. 6-38 being transmitted to the witness for familiarisation, we oppose the transmission of documents n. 1-5 on the list. Upon a diligent review of the disclosed material on Ringtail and eCourt, we were not able to locate these 5 documents. Moreover, we were not able to locate them in the Prosecution's Final List of Evidence. Given that we are not privy to the content of these documents, we strongly oppose their transmission to P-0801 for familiarisation.

Kind regards,

[REDACTED]
Case manager – Ngaissona Defence

From: [REDACTED] >
Sent: 13 April 2021 18:22
To: D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team
[REDACTED]; V44 LRV Team OPCV [REDACTED] V44 LRV Team
[REDACTED] V45 LRV Team [REDACTED]

Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management

Subject: Familiarisation Package for P-0801

Dear Counsel,
Dear all,

Please find attached the list of documents relating to P-0801, with 38 Items.

If you have any comments, kindly communicate them within three days. After this date, the Prosecution will transmit these documents to the Victims and Witnesses Unit for the familiarization process of the above-mentioned witness.

Kind regards,

[REDACTED]
OTP Case Manager

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