

# **ANNEX 11**

## **PUBLIC**

**From:** Trial Chamber V Communications  
**Sent:** 10 May 2021 18:08  
**To:** [REDACTED] Vanderpuye, Kweku; 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 Managers; Chamber Decisions Communication  
**Subject:** RE: P-2926 - Examination Procedure- Corrected

Dear Counsel,

The Presiding Judge recalls that issues left unaddressed in the Initial Directions and which require intervention by the Chamber will be dealt with in the course of the trial, as needed (*see* ICC-01/14-01/18-631, para. 3).

In the absence of any challenge to P-2926's qualifications, particularly noting the Defence's position as set out below, the Presiding Judge sees no need to issue further directions at this stage.

Furthermore, the Presiding Judge reminds the participants that challenges to the qualifications of witnesses as experts should be notified no later than 30 days before the anticipated testimony of an expert witness (*see* ICC-01/14-01/18-631, para. 66).

Kind regards, TC V

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**From:** [REDACTED]  
**Sent:** 10 May 2021 11:44  
**To:** [REDACTED] Vanderpuye, Kweku [REDACTED] Trial Chamber V Communications [REDACTED]  
**Cc:** D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team <[REDACTED]>; V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED] V45 LRV Team [REDACTED]; OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Managers [REDACTED]  
**Subject:** RE: P-2926 - Examination Procedure- Corrected

Dear Trial Chamber V,  
 Dear All,

The Defence for Mr Yekatom wishes to clarify that it had argued in its filing ICC-01/14-01/18-780-Conf of 17 December 2020 that P-2926's appearance as an overview expert was unnecessary as his evidence would be redundant and would impact the expeditiousness of the procedure.

Relative to the Prosecution email requesting guidance that the Chamber may provide, the Defence for Mr Yekatom defers to the Trial Chamber's discretion.

Kind regards,

[REDACTED]  
 Legal Assistant, Defence team for Mr Yekatom

**From:** [REDACTED]  
**Sent:** 10 May 2021 09:21  
**To:** Vanderpuye, Kweku; 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 Managers  
**Subject:** RE: P-2926 - Examination Procedure- Corrected

Dear Trial Chamber V,  
 Dear All,

The Defence for Mr Ngaissona wishes to clarify that rather than having challenged Witness P-2926's qualification as an expert as such, it had challenged his impartiality in its filing ICC-01/14-01/18-897-Conf of 3 March 2021, and does not intend to challenge P-2926's qualification as an expert.

Therefore, as far as the Defence for Mr Ngaissona is concerned, the Chamber's guidance is not warranted at this particular stage.

Kind regards,

[REDACTED]  
 Legal Assistant, Defence team for Mr Ngaissona

---

**From:** Vanderpuye, Kweku [REDACTED]  
**Sent:** 08 May 2021 15:17  
**To:** 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 Managers  
**Subject:** RE: P-2926 - Examination Procedure- Corrected

Dear Trial Chamber V,

Dear All,

In correction of the email below – please regard the following instead. Apologies for the inconvenience.

The Prosecution is given to understand that the Defence intends to object to the expert qualification of P-2926. Although the Chamber observed that no challenge had been raised by the Defence in its 11 February Decision on the Yekatom request to exclude expert witness P-2926 (ICC-01/14-01/18-881, para. 9), it is unclear whether the provisions of ICC-01/14-01/18-631, para. 66 ("Initial Directions") remain preclusive (*see*, ICC-01/14-01/18-907-Conf, para. 55). Depending on this, a preliminary procedure regarding the expert's qualification may be necessary.

The Prosecution thus considers that it may be helpful for the Parties and Participants to know whether the Chamber will follow Trial Chamber VII's four-step preliminary procedure (*see* ICC-01/05-01/13-T-16-Red2-ENG, p.52, Ins. 4-12) or perhaps another process. That procedure provides: (1) the Prosecution question the witness on their background and qualifications; (2) the Defence question the witness on the same matters; (3) the Defence may then orally challenge the witness's qualifications or the overall relevance of their anticipated testimony; and (4) the Chamber then issues a ruling on whether the witness may testify as an expert before their substantive examination commences.

Any guidance the Chamber may provide in this respect would be of considerable assistance in further streamlining the proceedings. Thank you.

Kind regards,

Kweku Vanderpuye

  
 Kweku Vanderpuye



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**From:** Vanderpuye, Kweku [REDACTED]  
**Sent:** 08 May 2021 13:18  
**To:** Trial Chamber V Communications [REDACTED]  
**Cc:** D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team  
[REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team  
[REDACTED] V45 LRV Team [REDACTED] OTP CAR IIB Case Management  
[REDACTED]; OTP CAR IIB Managers [REDACTED] >  
**Subject:** P-2926 - Examination Procedure  
**Importance:** High

Dear All,

The Prosecution is given to understand that the Defence intends to object to the expert qualification of P-2926. Although the Chamber's observed in that no challenge had been raised by the Defence in its 11 February Decision on the Yekatom request to exclude expert witness P-2926 (ICC-01/14-01/18-881, para. 9), it is unclear whether the provisions of ICC-01/14-01/18-631, para. 66 ("Initial Directions") are preclusive. Depending on this, a preliminary procedure regarding the expert's qualification may be necessary.

The Prosecution thus considers that it may be helpful for the Parties and Participants to know whether the Chamber will follow Trial Chamber VII's four-step preliminary procedure (see ICC-01/05-01/13-T-16-Red2-ENG, p.52, Ins. 4-12) or perhaps another process. That procedure provides that: (1) the Prosecution question the witness on their background and qualifications; (2) the Defence question the witness on the same matters; (3) the Defence may then orally challenge the witness's qualifications or the overall relevance of their anticipated testimony; and (4) the Chamber then issues a ruling on whether the witness may testify as an expert before their substantive examination commences.

Any guidance the Chamber may provide in this respect would be of considerable assistance in further streamlining the proceedings. Thank you.

Kind regards,

Kweku Vanderpuye



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