

ANNEX 25

PUBLIC

From: Trial Chamber V Communications
Sent: 21 March 2022 12:42
To: [REDACTED] Suprun, Dmytro; Trial Chamber V Communications
Cc: [REDACTED]
Subject: Chamber Decisions Communication
 Decision on the Common Legal Representative for the Former Child Soldiers' Request for an order to the VWS to facilitate contact with dual status individual P-2620

Dear all,

The Single Judge takes note of the Common Legal Representative of the Former Child Soldiers' (the 'CLRV') request and the VWU's update in this regard (see emails below).

In light of the information provided by the VWU, the Single Judge considers that no action is required from the Chamber at this point. Nonetheless, he urges the VWU to keep Mr Suprun updated regularly and to facilitate contact with P-2620 as soon as possible.

In order to include this decision and the underlying emails in the periodic reports on email decisions, the CLRV and VWU are further instructed to liaise with the relevant Registry section to apply any necessary redactions.

Kind regards, TC V

From: [REDACTED]
Sent: 21 March 2022 11:59
To: Suprun, Dmytro [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: [REDACTED]
Subject: RE: Request for an order to the VWS to facilitate contact with dual status individual P-2620

Dear Trial Chamber,

The VWU has taken note of the e-mail of the legal representative and wishes to assure the Chamber that it has already taken the necessary steps to facilitate contact.

As explained to the legal representative on 10 March, the situation of the witness [REDACTED]. When the VWU was approached early March [REDACTED]
 [REDACTED] In line with VWU practice [REDACTED]
 [REDACTED]

The VWU team is doing its utmost to provide support to the ongoing simultaneous trials and to the many witnesses placed under its care in various parts of the world under challenging circumstances.

The VWU is in contact with [REDACTED] and will soon propose a date to the legal representative for the meeting to be facilitated.

We remain available should the Chamber has any question.

Kind regards,

Natacha

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Suprun, Dmytro [REDACTED]
Sent: 18 March 2022 15:13
To: Trial Chamber V Communications [REDACTED]
Cc: [REDACTED]
Subject: Request for an order to the VWS to facilitate contact with dual status individual P-2620

Dear Trial Chamber V,

In accordance with paragraph 6 of the [Dual Status Protocol](#), the Common Legal Representative of the former child soldiers (the "Legal Representative") requested the Victims and Witnesses Section (the "VWS"), on 2 March 2022, to facilitate a privileged phone contact with his client P-2620, a dual status individual who [REDACTED] (the "Request").

On 7 March 2022, the Legal Representative followed up with the VWS on the status of the Request as there was no response.

On 10 March 2022, the Legal Representative followed up a second time on the Request as there was still no response. He noted that in the absence of the VWS's cooperation, he was prevented from the possibility to duly discharge his duties as counsel, and informed the VWS of his intention to seize Trial Chamber V (the "Trial Chamber") on the matter should he not receive any response by the next day.

On the same day, the VWS responded that "*these things can take time*" [REDACTED]. Further, because the VWS are extremely busy in trial, "*these kind of requests can take longer than anticipated*", and "P-2620 [REDACTED]"

In the absence of any action or further update from the VWS's side, the Legal Representative respectfully requests the Trial Chamber to order the VWS to facilitate contact with his client P-2620 pursuant to paragraph 6 of the Dual Status Protocol with no further delay.

The Legal Representative submits that although the Dual Status Protocol does not provide a specific deadline for the VWS to address requests for facilitating contact between counsel and dual status individuals, such requests should be addressed and implemented within a reasonable time to ensure free and timely communication between counsel and client. In this respect, the Legal Representative recalls the importance that the Trial Chamber has placed on the relationship between a client and his or her counsel as "*a client must be able to freely contact his or her legal representative and vice versa*" (see the Decision on Protocols at Trial, [ICC-01/14-01/18-677](#), para 51). At the very least, an acknowledgement of the email Request and an update of the expected time frame required to facilitate such a Request would be expected in light of the challenges communicated by the VWS.

While the Legal Representative understands that a delay may occur in addressing his Request, such a delay should be promptly communicated at the outset, be reasonably justified, and should not undermine the right to privileged communication between counsel and client in a timely manner. In the present instance, the Legal Representative's Request has been pending for sixteen days, and it was only after two follow up emails and a notification that the Trial Chamber may be seized should the Request not be processed, that the VWS responded. Beyond generic

explanations regarding the delay in communication, the VWS still has not provided the Legal Representative with an estimate as to when contact with his client can be facilitated.

The Legal Representative notes that P-2620 [REDACTED] and his previous request dated 31 January 2022 to facilitate contact with P-2620 was addressed expeditiously, i.e. within four days. The Dual Status Protocol states that “[i]f the dual status individual is in the ICCPP, contacts shall be facilitated by the VWU” (see the [Dual Status Protocol](#), para. 6). The Legal Representative therefore has no alternative under the Dual Status Protocol to contact his client, who [REDACTED], other than processing the Request through the VWS. This is even if P-2620 is [REDACTED], as the Dual Status Protocol does not provide another avenue for the Legal Representative to contact his dual status client who is [REDACTED]. Rather, he must rely on VWS’s cooperation in the matter. The Trial Chamber has previously stated that “[g]iven the information and security risks surrounding witnesses who are in the Court’s protection programme, the Chamber considers it reasonable that such contact is facilitated by the VWU” (see the Decision on Protocols at Trial, [ICC-01/14-01/18-677](#), para 51). For this very reason, the Request is now before the Trial Chamber.

Pursuant to regulation 23bis (1) and (2) of the Regulations of the Court, the present Request is submitted as confidential *ex parte*, available only to the CLR1 and VWS, as it pertains to a specific issue of the facilitation of contact between the Legal Representative and his client and refers to the content of correspondence which the other participants were not privy to.

For the foregoing reasons, the Legal Representative respectfully requests the Trial Chamber to order the VWS to facilitate contact with his client P-2620 pursuant to paragraph 6 of the Dual Status Protocol with no further delay.

The Legal Representative stands ready to submit his Request by way of a formal filing should this be deemed more appropriate by the Trial Chamber.

Kind regards,
Dmytro Suprun