

ANNEX 39

PUBLIC

From: Trial Chamber V Communications
Sent: 14 April 2022 10:18
To: Dimitri, Mylene; 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; OTP CAR IIB Managers; Chamber Decisions Communication; Associate Legal Officer-Court Officer
Subject: Decision on the Yekatom Defence's Request for Remote Attendance of two Defence team members during P-1193's testimony

Dear Counsel,

The Single Judge takes note of the Yekatom Defence's request for legal assistant Guy Pabingui and resource person/investigator Régis Tiangaye to 'be authorised to attend the examination of P-1193 remotely from the Country Office located in Bangui' (*see below* email from the Yekatom Defence, 3 December 2021, at 16:14).

The Single Judge recalls that, in light of the recent developments with regard to the Coronavirus Pandemic, he deemed appropriate to end the authorisation previously given to counsel to participate remotely by video-link, and that the Chamber will rule on requests on a case-by-case basis should exceptional circumstances require counsel to attend remotely (email from the Chamber, 14 April 2022, at 10:14).

Given the explanations provided, particularly related to (i) Mr Pabingui and Mr Tiangaye not being expected to actively participate during the examination of the witness; (ii) the protective measures granted to P-1193 and related need for private sessions; (iii) the limited scope and nature of the request; and (iv) the lack of objections by the other participants, the Single Judge considers that exceptional circumstances exist for the remote attendance of Mr Pabingui and Mr Tiangaye. The Single Judge therefore grants the Yekatom Defence's request.

The Single Judge instructs the Registry to ensure that the necessary arrangements are made, in line with the conditions set out in the Single Judge's decision of 12 March 2021 (email from the Chamber, 12 March 2021, at 14:50).

Kind regards,

TC V

From: Dimitri, Mylene [REDACTED]
Sent: 03 December 2021 16:14
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 Operations [REDACTED] OTP CAR IIB Managers [REDACTED]
Subject: Remote attendance of P-1193

Dear Trial Chamber V,

The Defence for Mr Yekatom respectfully requests that legal assistant Mr. Guy Rufin Pabingui and resource person / investigator Mr. Régis Tiangaye be authorised to attend the examination of P-1193 remotely from the Country Office located in Bangui. Both Mr. Pabingui and Mr. Tiangaye are registered lawyers in the Central African Republic. They are both subject to a Professional Code of Conduct as well as the pertinent provisions of the International Criminal Court. If leave is granted, they will not enter the Country Office hearing room with any electronic devices.

The testimony of P-1193 will address for the very first time very specific events related to Mr Yekatom, in contrast to the more general information and events mentioned so far. As P-1193 was granted protective measures and given the specificity of the events he will address which could often identify him, we can assume that there will be several private sessions during his testimony. Mr. Pabingui and Mr. Tiangaye need to follow the entirety of the hearings in order to conduct the necessary investigations with full knowledge of the context as presented before the Chamber. It will also allow them to follow up with some phone calls and verifications with defence leads and sources during the adjournments, without jeopardizing in any way the protective measures granted to the witness.

The Defence for Mr Yekatom tried to have Live Court installed for them. Unfortunately, this tool is for the moment only available in the Court Premises in the Hague. Given the number of audio and/or video materials anticipated to be used by all Parties, it is also important that Mr. Pabingui and Mr. Tiangaye can follow remotely via WebEx.

This is an exceptional request and the Defence doesn't anticipate many such requests in the future. According to the upcoming Prosecution's witness order, the next request is foreseen to be made for P-0954. Depending on the Chamber's ruling, the Defence will send any future requests on an as-needed basis.

The Defence also approached the Prosecution to inform them of its intention to make this request and the Prosecution indicated that they don't object.

Kind regards,
Mylène Dimitri

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