

ANNEX 9

Public redacted

From: Trial Chamber X Communications
Sent: 14 August 2020 13:05
To: Taylor, Melinda; Dutertre, Gilles; [REDACTED]
 [REDACTED]
 Doumbia, Seydou; Kassongo, Mayombo; [REDACTED];
 Nsita Luvengika, Fidel
Cc: Trial Chamber X Communications
Subject: TC X - Single Judge decision on the Prosecution proposed amended witness order
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Counsel,

In reviewing the Prosecution's amended proposal for the order of appearance of the first witnesses, the Single Judge gave due consideration to the parties' and participants' respective email submissions received in the last two days, the necessary requirements of adjusting and planning around many individuals' agenda and obligations, as well as the exceptional nature of the current situation caused by the COVID-19 pandemic.

The Single Judge accepts the Prosecution's explanations that these last minute adjustments to the schedule are required by the witnesses' personal situations combined with the world-wide, and unusually complex, present circumstances. The Single Judge wishes to express her satisfaction with the efforts undertaken to ensure that the evidentiary hearings start as planned at the end of the month and can be conducted with minimal interruptions.

Turning to the specifics of the amendments proposed, the Single Judge is of the view that those requested changes which are strictly limited to the order of appearance of witnesses who were already listed as part of the first 10 witnesses are of minimal impact. As such, she is minded to authorise these adjustments to ensure that all witnesses who were to appear, and remain available to do so, indeed come and testify as scheduled. These changes concern Witnesses P-0102, P-0193, P-0104, P-0075, [REDACTED], and P-0064.

The Single Judge however acknowledges the difficulties faced by all, and particularly by the Defence, in finalising and adjusting the trial preparation to these ongoing changes. While it is expected that there will be some gaps in between witnesses, which are unavoidable, this does not appear sufficient to compensate the addition of two witnesses to the list put forward on 9 July 2020 and confirmed by the Chamber on 22 July 2020.

Accordingly, while the Single Judge agrees with the rescheduling of P-0621's appearance to a slightly earlier date (from 11th to 7th Prosecution witness), she considers that it would not be appropriate to do the same for the second proposed witness. The testimony of P-0653 should therefore remain part of the second half of Block 1.

As per the above, the Single Judge exceptionally modifies the previously set witness order and accepts the newly proposed list whereby: i) the order of the witnesses appearing on the list is amended, due to their availability, as per the Prosecution's email of 13 August 2020 at 18:35; and ii) P-0621, but not P-0653, is added onto the list as the 6th witness to be called by the Prosecution.

Kind regards,

[REDACTED]
 On behalf of the Single Judge of Trial Chamber X

From: Dutertre, Gilles
 Sent: 13 August 2020 18:35
 To: Trial Chamber X Communications; Taylor, Melinda; [REDACTED] Doumbia, Seydou; Nsita Luvengika,

Fidel; Kassongo, Mayombo

Subject: Ordre des témoins

Chère Chambre de Première Instance X et Collègues,

La finalisation de l'ordre des premiers témoins s'avère complexe et chronophage au regard notamment des contraintes liées au COVID 19 et aux situations professionnelles et personnelles propres aux différents témoins.

Dans les circonstances, l'Accusation a fait de son mieux pour s'adapter au fur et à mesure aux facteurs changeants et pour finaliser un ordre de comparution des 11 premiers témoins qui puisse fonctionner.

L'Accusation propose ainsi l'ordre suivant :

1. P-0007
2. P-0010
3. P-0057
4. P-0102
5. P-0193
6. P-0653
7. P-0621
8. P-0104
9. P-0075
10. [REDACTED]
11. P-0064

C'est le mieux que l'Accusation puisse faire dans la situation actuelle compliquée.

C'est assez proche de la liste initiale des 10 premiers témoins en date du 14 juillet 2020 mais avec des changements de position de témoins et l'ajout de P-0621 (qui était en position 11) et de P-0653 (qui était en position 18) pour limiter autant que faire se peut les gaps créés par a) le report de [REDACTED] et par b) les problèmes d'agenda de certains témoins comme P-0075.

Etant précisé qu'il y aura très probablement tout de même des gaps entre certains de ces 11 témoins.

La Liste a été communiquée à VWS pour des raisons pratiques mais c'est naturellement sous réserve de l'accord de la Chambre.

L'accusation reste dans les mains de la Chambre.

Respectueusement,

Gilles Dutertre

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