

ANNEX 46
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Version

From: Trial Chamber V Communications
Sent: 16 October 2022 14:06
To: OTP CAR IIB; D30 Ngaissona Defence Team; Office of the Director DJSS; V45 LRV Team; V44 LRV Team; D29 Yekatom Defence Team; Associate Legal Officer-Court Officer; VWS Legal; V44 LRV Team OPCV
Cc: Trial Chamber V Communications; Chamber Decisions Communication
Subject: Directions regarding the hearings of P-0954 and P-2625 and cancellation of hearings

Dear counsel,

The Single Judge takes note of the health issues within the Yekatom Defence team, precluding it from examining witness P-0954 as scheduled. In light of this situation, the Single Judge cancels the hearings pertaining to the testimony of P-0954 until Thursday (inclusive). The Yekatom Defence and Prosecution are instructed to keep the Chamber updated of any changes and possibilities of advancing contingency witnesses.

The Single Judge appreciates the Yekatom Defence's willingness to appear remotely for the appearance of P-2625 tomorrow. The Registry is instructed to facilitate the remote attendance and liaise with Ms Dimitri and Ms Guissé as soon as possible.

Last but not least, the Chamber conveys its wishes for a speedy recovery to the Yekatom Defence team.

Kind regards, TC V

From: OTP CAR IIB [REDACTED]
Sent: Sunday, October 16, 2022 9:14 AM
To: Dimitri, Mylene [REDACTED]; Trial Chamber V Communications [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; Office of the Director DJSS [REDACTED]; V45 LRV Team [REDACTED]; V44 LRV Team [REDACTED]; OTP CAR IIB [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]
Subject: RE: Yekatom Defence - Attendance to hearings

Dear Trial Chamber V,

Dear All,

We wish Counsel speedy recoveries, and appreciate the Defence team's effort to accommodate the appearance of P-2625. The Prosecution fully understands the considerations expressed regarding the prospect of remote participation. We are aware of the limitations, and invite the Registry to explore technical means to accommodate the Parties and Participants more effectively in such circumstances.

The Prosecution awaits further guidance from the Chamber, and remains at the disposal of all concerned in working out the way best forward. Thank you.

Kind regards,

Kweku Vanderpuye

From: Dimitri, Mylene [REDACTED]
Sent: 15 October 2022 19:38
To: Trial Chamber V Communications [REDACTED] Vanderpuye, Kweku [REDACTED] D30 Ngaissona Defence Team [REDACTED] Office of the Director DJSS [REDACTED]; V45 LRV Team [REDACTED] V44 LRV Team [REDACTED]; OTP CAR IIB [REDACTED]

Cc: D29 Yekatom Defence Team [REDACTED]

Subject: Yekatom Defence - Attendance to hearings

Dear Trial Chamber V,
Dear all,

I regret to inform the Chamber, Parties and Participants that Ms Guissé and myself have tested positive to COVID 19 yesterday and today, respectively, and as such will be unable to attend next week's scheduled hearings until Thursday at earliest.

Further, and contrary to previous occasions, neither Yekatom Defence counsel will be able to attend next week's hearings remotely, given the importance of the anticipated evidence from the witnesses scheduled during this current evidentiary Block for Mr. Yekatom. As the Chamber is aware, the Defence had anticipated 6 to 8 and 16 hours of examination for P-0954 and P-1839, respectively. Even assuming either myself or Ms Guisse would be well enough to appear and examine, remote attendance would impede Defence Counsel's ability to properly hear the evidence, intervene if and when necessary, and communicate with Mr. Yekatom and other team members. Indeed, I also note that remote attendance does not allow Defence counsel to view the witness at all times, nor does it permit to view the items of evidence presented. In the circumstances, I respectfully submit that we not be in a position to effectively represent Mr Yekatom over the next week.

I would like to convey that every alternative option has been explored, with the aim of finding workable solutions to avoid disruption of the schedule. However, other team members with rights of audience have been preparing for other witnesses, and have not been closely involved in the preparation of P-0954 or P-1839, which rules out the possibility for them to examine this witness in the absence of both Counsels, especially on such short notice. Further, given that these team members have been in close contact with Counsel over the past week, there is also the possibility that they also test positive over the coming days.

However, conscious of the fact that arrangements have been made for the short appearance of P-2625 with his assigned Counsel in order to administer the solemn declaration and instruct the witness to refrain from contact, in order to avoid disrupting this specific schedule, both Ms Dimitri and Ms Guissé would be ready, with the Chamber's leave, to appear remotely via video-link for that short period of time.

We sincerely apologise for the disruption caused.

Kind regards,
Mylène Dimitri

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