

ANNEX 5
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Version

[REDACTED]

From: Trial Chamber V Communications
Sent: 10 November 2023 17:57
To: D30 Ngaïssona Defence Team; Office of the Director DJSS; Associate Legal Officer-Court Officer; [REDACTED]
Cc: OTP CAR IIB; D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on Ngaïssona Defence Urgent Request for Certifications of Rule 68(2)(b) witness statements

Dear Counsel,
Dear colleagues from the Registry,

The Single Judge takes note of the Ngaïssona Defence's email request sent on 10 November 2023, at 16:59.

The Single Judge reiterates that he does not see any impediment to a declaration under Rule 68(2)(b)(ii) of the Rules of Procedure and Evidence (the 'Rules') being obtained while a request for introduction of the underlying prior recorded testimony under Rule 68(2)(b) of the Rules is still pending (*see* Decision on Prosecution request regarding certification P-2467, email from the Chamber, 17 May 2023, at 11:13, with further references; *see also* Decision on Yekatom Defence Request Regarding Certification of Witness Statements, email from the Chamber, 30 October 2023, at 08:56).

The Single Judge is of the view that similar considerations apply in the current circumstances. Even though the Ngaïssona Defence has not yet filed applications to introduce the prior recorded testimony concerned pursuant to Rule 68(2)(b) of the Rules, it clearly intends to do so. Accordingly, the Single Judge considers that the Chamber's authorisation is not required.

Finally, the Single Judge recalls that the Chamber already designated the Registry Senior Legal Advisor, or anyone delegated by him, to witness declarations under Rule 68(2)(b) of the Rules for purposes of the present case (*see* Decision on the Prosecution's Request to Designate a Person Authorised to Witness a Declaration under Rule 68(2)(b) of the Rules of Procedure and Evidence, 6 May 2020, ICC-01/14-01/18-508).

The Ngaïssona Defence is instructed to share its email request with all participants.

Kind regards,
TC V