

ANNEX 30
Public Redacted
Version

From: Trial Chamber V Communications
Sent: 15 December 2023 13:43
To: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; 'V44 LRV Team'; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on Ngaissona Defence Urgent Requests under Regulation 35(2) regarding D30-4953 and D30-4035

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the Prosecution's responses received today at 11:48 and at 12:02.

First, the Single Judge recalls that the Chamber authorised the Ngaissona Defence to conduct the read-back of D30-4953's statement remotely (see email from the Chamber, 12 December 2023, at 11:13). The fact that the statement was prepared following an in person interview [REDACTED] is therefore not determinative for purposes of the current request. Rather, the Single Judge is satisfied that the logistical challenges reported by the Ngaissona Defence constitute 'good cause' under Regulation 35 of the Regulations.

With regard to D30-4035, the Single Judge notes the information reportedly conveyed by the CSS, according to which [REDACTED] would be necessary in order for the Ngaissona Defence to disclose the witness's statement to the Chamber and other participants (see email from the Ngaissona Defence, 12 December 2023, at 09:10). [REDACTED], the Single Judge considers that 'good cause' has also been established pursuant to Regulation 35 of the Regulations.

Lastly, as to the provision of D30-4953's and D30-4035's statements 'in any form', the Single Judge recalls that the Chamber considers that the read-back procedure constitutes an integral part of conducting interviews with witnesses, and that only upon completion of this procedure a formal statement may be considered as such (see ICC-01/14-01/18-539, paras 16-17). The Prosecution's requests are therefore rejected.

In light of the above, the Single Judge grants the Ngaissona Defence's requests. He further instructs them to provide monthly updates on the status of disclosure of D30-4953's and D30-4035's prior recorded testimonies, and to disclose them and file the respective Rule 68(2)(b) applications within one week of obtaining the prior recorded testimonies.

Kind regards,

TC V

From: Trial Chamber V Communications [REDACTED]
Sent: 15 December 2023 10:11
To: OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; [REDACTED] 'V44 LRV Team' [REDACTED]; V45 LRV Team [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; Chamber Decisions Communication [REDACTED]; Trial Chamber V Communications [REDACTED]
Subject: Order on Ngaissona Defence Urgent Requests under Regulation 35(2) regarding D30-4953 and D30-4035

Dear Counsel,

The Single Judge takes note of the Ngaïssona Defence's email requests received yesterday, 14 December 2023 at 19:48, and today at 08:57. He instructs the participants to share their views, if any, by 12:00 today.

Kind regards,

TC V