

ANNEX 38
Public Redacted
Version

From: Trial Chamber V Communications
Sent: 09 January 2024 10:16
To: D29 Yekatom Defence Team
Cc: OTP CAR IIB; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Trial Chamber V Communications; Associate Legal Officer-Court Officer; Chamber Decisions Communication
Subject: Decision on Yekatom Defence request for remote attendance of [REDACTED] during Block 28

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the Yekatom Defence's request for [REDACTED] to be authorised 'to attend remotely the hearing of the Defence's witnesses scheduled to testify between 15 and 31 January 2024' (*see below* email from the Yekatom Defence, 8 January 2024, at 09:58).

Recalling that authorisation for remote attendance is granted only on an exceptional basis (*see* email from the Chamber, 14 April 2022 at 10:14) and given the explanations provided, particularly related to the (i) Court's 'operational procedures' which require [REDACTED] to remain in Bangui to conduct the handover of the Yekatom Defence's witnesses to the VWU before their testimony; (ii) possibility that certain witnesses may testify with protective measures and the related need for private sessions; and (iii) lack of objections by the other participants, the Single Judge considers that exceptional circumstances exist for the remote attendance of [REDACTED]. He therefore authorises [REDACTED] to attend the hearings scheduled between 15 and 31 January 2024 remotely from the field office in Bangui.

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: [REDACTED]
Sent: 08 January 2024 09:58
To: Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]
Subject: Yekatom Defence request for remote attendance of [REDACTED] during Block 28

Dear Trial Chamber,

Further to the "*Yekatom Defence's Witness Order and Schedule for Block 28*" transmitted today, 18 December 2023, the Defence respectfully requests that [REDACTED] be allowed to attend remotely the hearing of the Defence's witnesses scheduled to testify between 15 and 31 January 2024.

The Defence recalls the Chamber's email instructions dated 14 April 2022 which indicated that "[s]hould exceptional circumstances require counsel to attend remotely, the Chamber will rule on requests on a case-by-case basis"; it is submitted that the current circumstances of [REDACTED] warrants such an exception.

Indeed, [REDACTED] has been since the beginning of the case in charge of the investigations conducted in the Central African Republic and is consequently familiar with most of the Defence witnesses and evidence, of which he has a complete overview. In light of this invaluable knowledge of the case, and familiarity with the expected testimony of the witnesses, it is critical that [REDACTED] be able to follow the examination and cross-examination of the Defence's witnesses, so as to be in a position to effectively assist the examining Counsel with any urgent action that may arise. Moreover, it is expected (ICC-01/14-01/18-2212-Conf-AnxB) that multiple witnesses will testify with protective measures which would impede [REDACTED] ability to provide comprehensive advices and suggestions should he be able to follow the hearing with face distortion / voice distortion and eventual private sessions.

The Defence stresses that it sought to have [REDACTED] present in the courtroom for Block 28, unfortunately he is not able to leave Bangui at that time as his presence is needed in order to conduct the handover of Defence's witnesses to VWU before they began their testimony. His absence from HQ is thus dictated by the operational procedures put in place by the Court to ensure smooth handover of witnesses from the Defence to VWU, who is the organ in charge to prepare them for the testimony.

The Defence stresses that, should the request be granted, [REDACTED] would of course not engage in any conversation with the AVL testifying witnesses present in Bangui; and that members of VWU would be present to guarantee that no such interactions occurs. Moreover, the present request is limited to Defence witnesses, this exceptional measure is not sought for the testimony of V44-P-0001 scheduled on 1-2 February 2024.

Kind regards,

[REDACTED]
Yekatom Defence

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