

Annex 5

Public redacted

From: Trial Chamber VI Communications
Sent: 12 June 2023 17:49
To: [REDACTED] Jacobs, Dov; OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV
Cc: Chamber Decisions Communication; Trial Chamber VI Communications
Subject: Decision on Prosecution Request for Variation of Time Limit for Making R-68 Requests in relation to P-2269 and P-0975

[ICC] RESTRICTED

Dear Prosecution,

Noting your request for an extension of time limit to make further requests pursuant to rule 68 of the Rules in relation to P-2269 and P-0975;

Noting the reasons provided by the Prosecution for the requested extension;

Noting that the Defence does not object to the requested extension;

The Chamber hereby grants the Prosecution an extension of time until 31 July 2023.

Kind regards,
 Trial Chamber VI

From: [REDACTED]
Sent: 12 June 2023 16:09
To: Jacobs, Dov [REDACTED]; Trial Chamber VI Communications [REDACTED]; [REDACTED]; OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED]
Cc: Chamber Decisions Communication [REDACTED]
Subject: RE: Instruction to provide update regarding three witnesses

[ICC] RESTRICTED

Dear Trial Chamber VI,
 Dear all,

The Prosecution wishes to clarify that it intends first to file a request pursuant to regulation 35 of the Regulations of the Court asking the Chamber to allow the late addition of P-2625 to the Prosecution's list of witnesses and evidence in the Said case and also request leave to file a motion pursuant to rule 68(3) of the Rules for the witness (ICC-01/14-01/18-1822, para. 3).

Kind regards,

From: Jacobs, Dov [REDACTED]
Sent: 12 June 2023 15:40
To: Trial Chamber VI Communications [REDACTED]; OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED]
Cc: Chamber Decisions Communication [REDACTED]
Subject: RE: Instruction to provide update regarding three witnesses

[ICC] RESTRICTED

Chère Chambre de première instance VI,

La Défense a pris note de la position de l'Accusation concernant les témoins P-2269, P-0975 et P2625, telle qu'exprimée dans son email du 8 juin 2023.

La Défense a pris note des informations communiquées par l'Accusation dans son email du 8 juin 2023 et, sur cette base, ne s'oppose pas à la demande de prorogation de délai de l'Accusation concernant le dépôt de requêtes en vertu de la Règle 68(2) pour les témoins P-2269 et P-0975.

S'agissant de P-2625, comme l'Accusation devait déposer la liste finale des témoins qu'elle entend appeler au soutien de son cas le 13 juin 2022 en application de la « Decision setting the commencement date of the trial and related deadlines » (ICC-01/14-01/21-243, par 24) et que le paragraphe 26 de la décision ajoutait que « witnesses and evidence may be added to these lists after the deadline only with leave of the Chamber », la Défense comprend de l'email de l'Accusation déposera dans un premier temps une demande d'ajout de P-2625 à sa liste de témoins, requête à laquelle la Défense pourra répondre, et que c'est uniquement si la Chambre devait faire droit à cette demande que l'Accusation pourra déposer, dans un second temps, une requête Règle 68(3) pour le témoin P-2625.

Une telle approche serait conforme à la pratique dans la présente affaire. Ainsi, en juillet 2022, lorsque l'Accusation indiqué à la Chambre et aux Parties son intention de formuler en même temps une demande de prorogation de délai en application de la Norme 35(2) pour déposer une requête Bar Table et la requête Bar Table elle-même (« Request for page extension for a final bar table motion and a request to vary the time limit », 21 juillet 2022, 20h53), la Chambre avait considéré que deux requêtes séparées devaient être déposées par l'Accusation, précisant que « The Chamber appreciates that the Prosecution intends to make the two requests in one motion 'in the interest of judicial economy' but nevertheless considers that it would be more appropriate for the Prosecution to file a separate request under Regulation 35(2) of the Regulations of the Court » (« Decision on request for page extension for a final bar table motion and a request to vary the time limit », 22 juillet 2022, 14h40).

Pour la Défense, la même logique s'applique ici, puisque c'est uniquement si la Chambre devait faire droit à la demande d'ajout de P-2625 à sa liste de témoins qu'une Requête en vertu de la Règle 68(3) pourrait être considérée.

La Défense comprend donc que l'Accusation déposera d'abord sa demande d'ajout de P-2625 à la liste de témoins le 1er juillet 2023 au plus tard.

Bien à vous,

Dov Jacobs

From: [REDACTED]
Sent: 08 June 2023 13:18
To: Trial Chamber VI Communications [REDACTED]; OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED]

Cc: Chamber Decisions Communication [REDACTED]

Subject: RE: Instruction to provide update regarding three witnesses

[ICC] RESTRICTED

Dear Trial Chamber VI,

The Prosecution provides the following information as an update on its position in relation to witnesses P-2269, P-0975 and P-2625.

The Prosecution respectfully requests a further extension of the time limit for application to introduce the prior recorded testimony of witnesses P-2269 and P-0975 pursuant to Rule 68 and regulation 35(1) of the Regulations of the Court (“Regulations”).

An extension until 31 July 2023 is requested for witnesses P-2269 and P-0975 on the basis of the following, and in order for the Prosecution to determine whether it would be most appropriate to file a 68(2) (b) or rule 68(2)(c) application in respect of each witness:

- i) Since the Prosecution’s last email communication to the Chamber, dated 13 February 2023, regarding a request for an extension of time limit with respect to the three witnesses, the efforts by the Registry and CAR authorities to locate P-2269 are still not conclusive. Consequently, P-2269 is yet to appear before Trial Chamber V pursuant to the summons decision issued on 31 January 2023 (ICC-01/14-01/18-1738-Conf).
- ii) Investigators from the Office of the Prosecutor have so far been unsuccessful in contacting P-0975. They continue to liaise with the relevant stakeholders in the region where P-0975 is located in order to communicate with and access the witness.

Witness P-2625 was relied upon by the Prosecution at the confirmation stage of the SAID case but then ceased cooperation up until late 2022 when the Court re-established contact with the witness. This renewed cooperation ultimately led to P-2625’s testimony in the Yekatom and Ngaïssona trial in January 2023. The Prosecution therefore intends to submit a request to add P-2625 to its List of Witnesses and to file a rule 68(3) application in relation to the witness by 01 July 2023 at the latest.

For the above reasons, the Prosecution respectfully requests the Chamber to grant a further extension of the time limit for application to introduce the prior recorded testimony of P-2269 and P-0975 until 31 July 2023, and informs the Chamber of its intention to file the above-mentioned request related to P-2625.

Best regards,

From: Trial Chamber VI Communications [REDACTED]

Sent: 01 June 2023 11:35

To: OTP CAR IIA Communications [REDACTED] D33 Said Defence Team
[REDACTED]; Said LRV Team OPCV [REDACTED]

Cc: Trial Chamber VI Communications [REDACTED]; Chamber Decisions Communication [REDACTED]

Subject: Instruction to provide update regarding three witnesses

Dear Parties and participants,

The Chamber notes that the Prosecution indicated that it was considering making requests pursuant to rule 68 of the Rules to introduce the prior recorded testimony of P-2269, P-0975 and P-2625.

The Chamber further notes that the Prosecution's position in respect of these witnesses remains unclear.

Accordingly, the Chamber orders the Prosecution provide an update, as soon as possible, as to its position in respect of P-2269, P-0975 and P-2625 and whether it still intends to make a rule 68 application in respect of these witnesses.

Kind regards,
Trial Chamber VI

This message contains information that may be privileged or confidential and is the property of the International Criminal Court. It is intended only for the person to whom it is addressed. If you are not the intended recipient, you are not authorized by the owner of the information to read, print, retain copy, disseminate, distribute, or use this message or any part hereof. If you receive this message in error, please notify the sender immediately and delete this message and all copies hereof.

Les informations contenues dans ce message peuvent être confidentielles ou soumises au secret professionnel et elles sont la propriété de la Cour pénale internationale. Ce message n'est destiné qu'à la personne à laquelle il est adressé. Si vous n'êtes pas le destinataire voulu, le propriétaire des informations ne vous autorise pas à lire, imprimer, copier, diffuser, distribuer ou utiliser ce message, pas même en partie. Si vous avez reçu ce message par erreur, veuillez prévenir l'expéditeur immédiatement et effacer ce message et toutes les copies qui en auraient été faites.