

**ANNEX 47**  
**Public Redacted**  
**Version**

**From:** Trial Chamber V Communications  
**Sent:** 17 January 2023 12:30  
**To:** D30 Ngaïssona Defence Team  
**Cc:** OTP CAR IIB; D29 Yekatom Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Chamber Decisions Communication; Associate Legal Officer-Court Officer; Trial Chamber V Communications  
**Subject:** Second Decision on the Request for clarification with respect to the mandate of counsel for P-2625

Dear Counsel,

The Single Judge trusts that Mr Philpot is cognisant of the limited scope of his mandate and restricted his interactions with the witness accordingly. In light of this, he does not consider it necessary to take any further action at this point.

Kind regards, TC V

**From:** [REDACTED]  
**Sent:** 17 January 2023 12:07  
**To:** Trial Chamber V Communications <[REDACTED]>; D30 Ngaïssona Defence Team [REDACTED]  
**Cc:** OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaïssona Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV <[REDACTED]>; V45 LRV Team [REDACTED]; Chamber Decisions Communication [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]  
**Subject:** RE: Decision on the Request for clarification with respect to the mandate of counsel for P-2625

Dear Trial Chamber,

We sincerely thank you for considering our request and for clarifying that Mr Philpot's presence "may indeed no longer be necessary" given P-2625 has given his consent to testify.

The Defence is nonetheless concerned about the potential consultations which have occurred yesterday and today between P-2625 and Mr Philpot. For instance, today, the Defence observed Mr Philpot entering the consultation room at the 11:00 coffee break, despite the Chamber's ruling. We reiterate our concern that such potential consultations, in the absence of a legal basis or mandate, may affect the integrity of the proceedings.

We therefore respectfully request the Chamber to order the Registry to provide clarifications as to the frequency and extent of the contacts and consultations which have occurred between Mr Philpot and P-2625 since P-2625's arrival in The Hague.

With kind regards,

[REDACTED]  
 Legal Assistant, Defence for Mr Ngaïssona

**From:** Trial Chamber V Communications [REDACTED]  
**Sent:** 17 January 2023 09:34  
**To:** D30 Ngaïssona Defence Team [REDACTED]  
**Cc:** OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaïssona Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Chamber Decisions Communication [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]; Trial Chamber V Communications [REDACTED]  
**Subject:** Decision on the Request for clarification with respect to the mandate of counsel for P-2625

Dear Counsel,

The Single Judge takes note of the Ngaïssona Defence request (see email below).

The Single Judge recalls that Mr Philpot was appointed pursuant to Rule 171(5) of the Rules, in the event that P-2625 refused to appear and/or testify (see email from the Chamber, 13 October 2022, at 11:24). The appointment was as

such not limited to the hearing held on 17 October 2022. However, noting that P-2625 has agreed to testify before the Court, the Single Judge concedes that Mr Philpot's presence may indeed no longer be necessary. To ensure the witnesses' continued agreement to continue his testimony, the Single Judge finds it appropriate to have Mr Philpot present until the end of today but notes that he can be relieved from his duties as of tomorrow.

The Registry is instructed to notify this decision to Mr Philpot.

Kind regards, TC V

**From:** [REDACTED]

**Sent:** 16 January 2023 19:25

**To:** Trial Chamber V Communications [REDACTED]

**Cc:** OTP CAR IIB [REDACTED] D29 Yekatom Defence Team [REDACTED]

D30 Ngaïssona Defence Team [REDACTED] V44 LRV Team

[REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team

**Subject:** Request for clarification with respect to the mandate of counsel for P-2625

**Importance:** High

Dear Trial Chamber V,

We write to request clarification about the presence of Counsel Mr John Philpot in the courtroom during the testimony of P-2625. It is our understanding that Mr Philpot's appointment as duty counsel pursuant to rule 171(5) of the RPE – on the basis of the Chamber's order of 13 October 2022, at 11:24 – was limited to the summons hearing held on 17 October 2022. Therefore, it seems that Mr Philpot's presence in the courtroom lacks a legal basis and that he is acting in the absence of a mandate. Not only is this a procedural irregularity, it is also prejudicial to the integrity of the proceedings.

Mr Philpot's limited mandate was clear from the Chamber's ruling, in which it held: "In light of the possibility that the witness refuses to appear and/or testify, the Chamber considers it necessary for the witness to appear with the assistance of counsel. In this regard, the Chamber notes that Rule 171(5) of the Rules stipulates that a person refusing to comply with a direction by the Court 'shall be given an opportunity to be heard before a sanction for misconduct, as described in this rule, is imposed'."

This was also clear from the Registry's notification of Mr Philpot's appointment, dated 14 October 2022, confirming his appointment pursuant to rule 171(5) of the RPE (ICC-01/14-01/18-1610-Conf). According to ICC-01/14-01/18-1610-Conf-Anxl, Mr Philpot's appointment was limited to the summons hearing held in October 2022, via video-link. The Registry made clear that Mr Philpot's appointment was "limited to the mandate and dates outlined in this letter (between 17 and 20 October 2022) and in no way connotes an appointment as counsel, to be retained and remunerated under the Court's legal aid scheme, for any other legal services the person you will assist during this interview may subsequently require."

During the summons hearing, it became clear that P-2625 decided to testify and comply with the summons. Therefore, the Defence seeks clarification as to the legal basis for Mr Philpot's presence in the courtroom, as P-2625's counsel, and seeks information as to any contacts and consultations had between Mr Philpot and P-2625 directly before and during his testimony today. It is unclear whether such contacts and consultations have taken place. The Defence is concerned that any such contacts, in the absence of a proper mandate, may taint the evidence and therefore, the integrity of trial.

Kind regards,

[REDACTED]  
Legal Assistant, Defence for Mr Ngaïssona

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