

ANNEX 12
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Version

[REDACTED]

From: Trial Chamber V Communications
Sent: 24 November 2022 09:15
To: VWS Legal; [REDACTED]
Cc: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on the VWU clarification request concerning application of the Witness Familiarisation Protocol to P-2625

Dear colleagues from the VWU,

The Chamber takes note of the VWU's request for guidance 'as to the need to lift any prohibition of contact between the Prosecution in order to allow the calling party to have limited communication with the witness [P-2625] until he would be handed over to the VWU before his voluntary appearance before the Court' (see email from the VWU to the Chamber and the Prosecution, 22 November 2022, at 14:49).

At the outset, the Chamber recalls that on 17 October 2022, P-2625 appeared before the Chamber for the purpose of administering the solemn undertaking. During this appearance, the Presiding Judge indicated that the witness's testimony would take place at a later stage, and that the Prosecution should take into consideration the witness's preference to testify 'early next year' (see T-165-CONF-ENG, p. 3, line 23 to p. 4, line 20).

The Chamber notes the VWU's submissions regarding 'the primary responsibility of the calling party with regard to witness case management', and that P-2625 'was never properly handed over to the VWS nor familiarised (neither was he given access to his statement)'. It further notes that, pursuant to paragraph 26 of the Witness Familiarisation Protocol, 'once the process of witness familiarisation has commenced, any further meeting between the entity calling the witness and witnesses outside of Court is prohibited'.

Under these circumstances, the Chamber considers that the Prosecution, as the calling party, continues to remain responsible for P-2625. In any event, it trusts that the contact between the Prosecution and the witness will be strictly limited to matters concerning the scheduling of his upcoming testimony. The Prosecution may thus contact the witness for this purpose until he is transferred to the VWU prior to his upcoming testimony, and proceed thereafter in accordance with the Witness Familiarisation Protocol.

The Chamber further instructs the VWU to share its email (with redactions if needed) with the rest of the participants.

Kind regards, TC V