

ANNEX 18
Public Redacted
Version

From: Trial Chamber V Communications
Sent: 23 February 2024 17:32
To: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; OTP CAR IIB
Cc: V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; VWS Legal; Associate Legal Officer-Court Officer; Trial Chamber V Communications; Chamber Decisions Communication
Subject: Decision on Yekatom Defence Request for authorization for P-4864 to bring laptop into Courtroom

[ICC] RESTRICTED

Dear Counsel,

dear colleagues of the Registry,

The Single Judge takes note of the Yekatom Defence's below request, the Prosecution's response thereto, containing its observations thereon, and the reply from the Yekatom Defence.

In light of the explanations provided by the Yekatom Defence, and noting that the Prosecution does not object, the Single Judge considers that it is appropriate for D30-4864 to bring and use his personal laptop in the courtroom and/or during the breaks, in order to review and comment upon any call sequence tables and their underlying call data records (the 'Information') provided to him by the parties.

Therefore, the Single Judge grants the request. The Registry is instructed to put all measures in place it deems necessary to ensure the security and confidentiality of the Information.

The Single Judge further instructs the Ngaissona Defence to remind D30-4864 of his confidentiality obligations, both during and after his testimony is completed.

Kind regards, TCV

From: [REDACTED]
Sent: 23 February 2024 14:28
To: OTP CAR IIB [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team <[REDACTED]>; D29 Yekatom Defence Team [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; V44 LRV Team OPCV [REDACTED]; [REDACTED]; V44 LRV Team [REDACTED]; [REDACTED]; V45 LRV Team [REDACTED]
Subject: RE: Yekatom Defence Request for authorization for P-4864 to bring laptop into Courtroom

[ICC] RESTRICTED

Dear Trial Chamber V,
Dear all,

The Yekatom Defence (« Defence ») understands the Prosecution's concerns but wishes to bring the following points, which might alleviate them.

First, [REDACTED] (P-4864) is admitted on the [List of Experts of the ICC](#) (page 2), and is as such knowledgeable about the sensitivity and confidentiality of the information that might be shared with him.

Second, while on the Court premises, like everyone else, P-4864 will be unable to access Wifi; his computer will stay off the internet.

Third, the Defence does not oppose P-4864 to formally undertake to keep the information shared confidential and to delete them as soon as his testimony is concluded, before he leaves the court premises. If deemed necessary, this deletion could be done in the presence of the Calling Party, of the Defence and of the Prosecution as some of the material shared (CDRs) was disclosed by their Office.

However the Defence does not believe that an inspection of P-4864's laptop to be appropriate in light of the likelihood that he is in possession of confidential and privileged information from the other cases he is working on. P-4864's resume indicates that he is [REDACTED] (CAR-D30-0018-0028 at 0030), the witness should not be put in a situation where an inspection of his laptop might infringe his obligations towards his other clients.

In light of the suggestions detailed above, of the fact that P-4864 is also working for the [REDACTED], and that he signed an confidentiality agreement for the Ngaissona Defence (CAR-D30-0018-0028 at 0030), the Defence submits that no undue risk would arise from P-4864 being allowed to review CSTs and CDRs on his personal laptop during the hearing and/or during breaks.

Kind regards,

[REDACTED]
Yekatom Defence

De : OTP CAR IIB [REDACTED]

Envoyé : vendredi 23 février 2024 13:44

À : Trial Chamber V Communications [REDACTED]

Cc : D30 Ngaissona Defence Team [REDACTED] OTP CAR IIB [REDACTED]
[REDACTED] D29 Yekatom Defence Team [REDACTED]

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

Objet : RE: Yekatom Defence Request for authorization for P-4864 to bring laptop into Courtroom

[ICC] RESTRICTED

Dear Trial Chamber V,
Dear Parties and Participants,

The Prosecution does not oppose the Yekatom Defence Request and defers to the Chamber's discretion, subject to the following observations.

As the Chamber may recall, the situation with P-2193 was different from the present, in that it was necessary for him to bring a laptop into the Courtroom given that the technical facilities to display the evidence were otherwise unavailable at the Court. Further, the documents to be viewed by P-2193 actually originated from him. As such, there were not any attendant security issues related to third-party information. By contrast, the information that P-4864 would be provided with does not originate from him and contains the data of third parties. The Court may therefore need to define and apply conditions to ensure the confidentiality and security of information, particularly given recent events at the Court. This may include, for example, securing the laptop at certain points, inspection of

the device and/or removal of any information provided, and/or obtaining an undertaking from the witness concerning any conditions of confidentiality the Court may deem appropriate. Thank you.

Kind regards,
On behalf of OTP Trial Team

De : [REDACTED]

Envoyé : vendredi 23 février 2024 11:46

À : Trial Chamber V Communication [REDACTED]

Cc : D30 Ngaïssona Defence Team <[REDACTED]>; OTP CAR IIB [REDACTED]

[REDACTED] D29 Yekatom Defence Team [REDACTED]

[REDACTED] V44 LRV Team OPCV [REDACTED]

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

Objet : Yekatom Defence Request for authorization for P-4864 to bring laptop into Courtroom

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Dear Trial Chamber V,

Dear All,

The Yekatom Defence (“Defence”) hereby requests that witness P-4864, scheduled to testify from the 27th February to the 29th of February, be allowed to bring and use his personal laptop in the Courtroom and/or during breaks.

As indicated in the “*Yekatom Defence Response to the Ngaïssona’s “Request for the Submission of Expert Report and Associated Material pursuant to Rule 68(3)”*”, (ICC-01/14-01/18-2329, paras 17-18), we intend to show P-4864 CSTs created by our Defence team in order to ascertain their reliability.

It would be greatly appreciated for P-4864 to be allowed to bring his own laptop in order to be provided with the CSTs and CDRs just before his testimony. This would allow for the witness to verify either on the stand, or during the breaks, the documents provided. In light of the size and complexity of CSTs and CDRs examination, we believe that this practical solution would be in the interest of all parties, as it would streamline the proceedings and questioning by the Defence. This request is akin to a similar request granted by the Chamber in relation to P-2193 (Email decision “*RE: Request for authorization for P-2193 to bring laptop into Courtroom and VWS premises*” dated 8 March 2021 at 13:10).

Furthermore, the Defence ensures to the other parties, that the CSTs and CDRs which will be showed to P-4864 during his testimony will be disclosed sufficiently in advance in order to allow every party to prepare for the examination of P-4864. All items are to be included in the Defence’s List of Material that will be released on Monday.

To facilitate this request, the Defence has contacted the Ngaïssona Defence, as the calling party of P-4864, which indicated that it does not oppose to this request and has kindly ascertained that the witness does not oppose to this request and will travel to the Hague with his laptop.

Thank you for your consideration.

Kind Regards,

[REDACTED]
Legal intern
Yekatom Defence Team

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