

Annex 5

[REDACTED]

From: Trial Chamber V Communications
Sent: 26 October 2020 16:39
To: Dimitri, Mylene; Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team; [REDACTED]
Subject: RE: Concerning ICC-01/14-01/18-692-Conf

Dear Counsel,

The Single takes note of the Defence's withdrawal of motion ICC-01/14-01/18-692-Conf. In light of the Prosecution's concessions below, the Single Judge does not consider it necessary to issue any further decisions with regard to this motion.

Kind regards, TC V

From: Dimitri, Mylene
Sent: 26 October 2020 13:56
To: Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team
Subject: RE: Concerning ICC-01/14-01/18-692-Conf

Dear Trial Chamber V,

We are now in a position to confirm that we received on Friday a courtesy copy of the lesser-redacted versions of the material subject to our motion (ICC-01/14-01/18-692-Conf). Upon further analysis of the material disclosed, we acknowledge that the redactions are in conformity with the disposition of the Chamber's Decision ICC-01/14-01/18-670-Conf-Red. Hence, as indicated last Friday, we are withdrawing our motion and alternatively respectfully requesting that we be permitted to "count" this incident when referring to the total number of prior violations or failures by the Prosecution to timely and fully comply with their disclosure obligations.

Kind regards,

Mylène Dimitri

From: Dimitri, Mylene
Sent: 23 October 2020 15:23
To: Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team
Subject: RE: Concerning ICC-01/14-01/18-692-Conf

Dear Trial Chamber V,

As of this writing we have not yet received the lesser-redacted versions of the materials in question neither by official disclosure nor by courtesy copy. Upon receipt of those items we are willing to withdraw our motion.

However, because there have been a number of disclosure-related violations before now, and because we worry that there may be others before we get to trial next year, we would request that we be permitted to "count" this incident when referring to the total number of prior violations or failures by the Prosecution to timely and fully comply with their disclosure obligations. We did try to resolve this one by direct communication with counsel but got no timely reply. Further failures or violations could make us feel obligated to ask for stronger sanctions.

Kind regards,

Mylène Dimitri

From: Trial Chamber V Communications [mailto:████████████████████]
Sent: 23 October 2020 13:05
To: D29 Yekatom Defence Team
Cc: D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; Trial Chamber V Communications
Subject: RE: Concerning ICC-01/14-01/18-692-Conf

Dear Counsel,

Noting that the Prosecution conceded and apologised for its omission - which is greatly appreciated by the Chamber - could the Defence indicate whether it intends to withdraw its motion ICC-01/14-01/18-692-Conf?

Kind regards, TC V

From: Vanderpuye, Kweku
Sent: 22 October 2020 09:05
To: Trial Chamber V Communications
Cc: 'D29 Yekatom Defence Team'; 'D30NgaissonaDefenceTeam████████████████████'; V44LRVTeam-OPCV; 'V44LRVTea████████████████████'; 'V45LRVTeam@████████████████████'; OTP CAR IIB Case Management; OTP CAR IIB Managers
Subject: Concerning ICC-01/14-01/18-692-Conf

Dear Trial Chamber V,

Dear All,

The Prosecution takes note of the Yekatom Defence's Motion (ICC-01/14-01/18-692-Conf) concerning the Prosecution's failure to lift certain redactions and disclose the affected material in accordance with the Chamber's Decision (ICC-01/14-01/18-670-Red) within one week of notification. The Prosecution concedes the omission, which was unfortunately the result of a miscommunication within the team and a further oversight and inaction as regards an email enquiry by the Yekatom Defence.

The Prosecution timely disclosed 9 documents erroneously containing redactions that it had intended to lift. These redactions have now been lifted, and the lesser redacted versions of the documents complying with the Decision, will be disclosed in the forthcoming Pre-Trial INCRIM package 56.

The Prosecution assures the Chamber, Parties, and the Participants, that it has now taken the requisite action and the material will be promptly disclosed. Accordingly, the Prosecution does not intend a further Response to the Motion.

As the Chamber is aware, the Prosecution team remains fully engaged in tending to disclosure matters, necessary filings, witness management issues, and host of other pressing preparatory activities in a concerted effort to meet the several deadlines set for 9 November 2020, as well as other substantial deadlines that remain looming. That said, the Prosecution regrets the omission and apologises to the Chamber, Parties, and Participants for its oversight and particularly concerning any inconvenience caused. It further wishes to assure the Chamber that it continues to do its best abide by the Chamber's directives and orders to advance the proceedings as efficiently as possible, even if imperfectly.

Thank you for your consideration.

Kind regards,

Kweku Vanderpuye



Cour
Pénale
Internationale
International
Criminal
Court



Kweku Vanderpuye

Senior Trial Lawyer
Prosecution Division



www.icc-cpi.int

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.