

Annex 17

From: Trial Chamber V Communications
Sent: 10 November 2020 14:01
To: [REDACTED] VWS Legal
Cc: OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team; Office of the Director DJSS; [REDACTED]; Trial Chamber V Communications
Subject: RE: Defence request to interview Prosecution Witness P-2625

Dear Ms [REDACTED] dear VWU,

The Single Judge takes note of the Defence's request 'to instruct VWU to attempt to contact Prosecution Witness P-2625' (the 'Request').

The Single Judge recalls that the Protocol on the Handling of Confidential Information During Investigations and Contact between a Party or Participant and Witnesses of the Opposing Party or of a Participant, ICC-01/14-01/18-677-Anx5, paragraph 31 foresees that *'The party or participant seeking to interview a witness of another party or participant shall notify the latter of its intent to do so. The calling party or participant shall ask the witness within five days whether he or she agrees to be contacted or interviewed. [...].'* Paragraph 33 of the protocol further stipulates that *'[i]f the calling party is unable to contact the witness within five days, the party seeking to interview the witness may apply to the Chamber and request that the VWU be instructed to attempt to contact the witness.'*

In light of the fact that the Prosecution has been unable to reach witness P-2625 for more than five days since the Defence's notification of its intent to interview the witness on 20 October 2020 (email from the Defence to the Prosecution on 20 October 2020, at 11:52, see Annex III of the Request), the Single Judge instructs VWU to contact and ask witness P-2625 whether he agrees to be contacted or interviewed by the Yekatom Defence.

Kind regards, TC V

From: [REDACTED]
Sent: 09 November 2020 16:14
To: Trial Chamber V Communications <[REDACTED]>
Cc: OTP CAR IIB Case Management <[REDACTED]>; OTP CAR IIB Managers [REDACTED]; D29 Yekatom Defence Team <[REDACTED]>; Office of the Director DJSS <[REDACTED]>
Subject: Defence request to interview Prosecution Witness P-2625

Dear Trial Chamber V,

Pursuant to paragraph 33 of the Protocol on the Handling of Confidential Information and Contact with Witnesses (ICC-01/14-01/18-677-Anx5, "the Protocol"), the Defence hereby respectfully requests the Chamber to instruct the Victims and Witnesses Unit ("VWU") to attempt to contact Prosecution Witness P-2625 and inquire if he is willing to be interviewed by the Defence and if so whether he requests the presence of a Prosecution representative. The Defence is prepared to meet the witness in person or remotely.

On October 20, 2020, the Defence contacted the Prosecution to notify them of our intention to interview P-2625 and inquire as to the witness willingness to meet with the Defence. The correspondence can be found as Annex I of this request.

Few hours later, the Defence was informed by its investigator, [REDACTED], of an inadvertent contact with witness P-2625. The witness called our investigator, to inform him of his frustration against the Prosecution. [REDACTED] immediately informed the witness of his obligation to end the discussion. The inadvertent contact report was sent to the Prosecution on October 21, 2020. The correspondence and the Prosecution's response can be found as Annex II of this request.

On November 3, 2020, the Defence asked the Prosecution if they had any updates on the request to meet with P-2625. The Prosecution responded that it was "not presently in a position to contact [REDACTED] since his recent contact with the YEKATOM Defence; in fact, as of that date". The Prosecution invited the Defence to seek the Chamber's intervention. The correspondences can be found as Annex III of this request.

Thus, pursuant to the Protocol, the Defence hereby respectfully requests the Chamber to instruct VWU to attempt to contact Prosecution Witness P-2625 and inquire if he is willing to be interviewed by the Defence and, if so, whether he requires the presence of a Prosecution representative.

The Defence remains at the Chamber's disposal for any additional information in relation to this request.

If the Chamber requires us to raise this issue by way of a formal motion, please let us know and we will do so.

The present email is distributed to the Chamber, the Prosecution, and the Registry only to retain the confidentiality of the Defence investigation. Should the Chamber find otherwise, the Defence stands ready to include the Ngaïssona Defence and the CLRV to this request.

Kind regards,

[REDACTED]
Legal Consultant
Yekatom Defence

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