

ANNEX 10

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 15 February 2023 15:49
To: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on the 'Report of legal Adviser to witness P-0487 Pursuant to Rule 74 of the Rules', ICC-01/14-01/18-1751-Conf-Exp
Attachments: Yekatom Defence Response to 1751-Conf-Red

Dear all,

The Chamber takes note of the request by P-0487's Rule 74 counsel, Ms Dignité Bwiza ('Report of legal Adviser to witness P-0487 Pursuant to Rule 74 of the Rules of Procedure and Evidence', 14 February 2023, ICC-01/14-01/18-1751-Conf-Exp, confidential *ex parte*, only available to the Prosecution; confidential redacted version notified the same day, ICC-01/14-01/18-1751-Conf-Red) (the 'Request'). It also takes note of the emails sent by the the Common Legal Representatives of the Victims of the Other Crimes and the Yekatom Defence, indicating that they do not intend to respond to the Request (*see* email below and attached).

In particular, the Chamber notes that P-0487's counsel requests that the Chamber, *inter alia*, (i) does not disclose the items in the Prosecution's list of materials for P-0487's examination 'to the public or any State (including the Central African Republic), if they are incorporated into the case file for any reason'; (ii) grants the witness 'the assurances that any statement made during the hearings that might lead to self-incrimination will be kept confidential and will not be disclosed to the public or any State and will not be used either directly or indirectly against the Witness in any subsequent prosecution by the Court, except under articles 70 and 71'; and (iii) 'give[s] effect to such assurances by ordering the adoption of the measure or measures under rule 74(7) that the Chamber will deem most appropriate', in particular in respect of 'any part of the Witness testimony that would refer to the occupation of the witness before and after the time of events be given in private session' (Request, paras 4, 16).

The Chamber notes that, following a request by P-0487's previous Rule 74 counsel, the Chamber already granted general assurances under Rule 74 to P-0487 in relation to two specific topics of the witness's prospective testimony (*i.e.* [REDACTED]).

[REDACTED] (*see* email from the Chamber, 2 of December 2022, at 16:23; '*Requête aux fins d'obtention de garanties de non-incrimination au profit de P-0487*', 2 December 2022, ICC-01/14-01/18-1683-Conf). However, the Chamber agrees with Ms Bwiza that a risk of self-incrimination also exists with regard to other topics, such as the witness's position and role within Mr Yekatom's group. Accordingly, and noting the absence of objections from the participants, the Chamber grants general assurances under Rule 74 of the Rules to P-0487.

With regard to the items included in the Prosecution's list of materials for P-0487's examination, the Chamber notes that some of these items are already accessible to the public. Moreover, it notes that the Chamber granted in-court protective measures to the witness in the form of face and voice distortion, and the use of a pseudonym (Decision ICC-01/14-01/18-906-Red2, p. 41). The Chamber thus notes that P-0487's identity will in any case be concealed from the public and expects the participants to be vigilant when publicly referring to these items to the extent that their content could potentially identify the witness.

The Chamber orders the Registry to inform Ms Bwiza of this decision as soon as possible.

Kind regards, TC V

From: Massidda, Paolina [REDACTED]
Sent: 15 February 2023 11:40
To: Trial Chamber V Communications [REDACTED]
Cc: Chamber Decisions Communication [REDACTED]; OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Subject: RE: Order concerning the 'Report of legal Adviser to witness P-0487 Pursuant to Rule 74 of the Rules', ICC-01/14-01/18-1751-Conf-Exp

Dear All,
 The Common Legal Representatives do not intend to file a response.
 Kind regards,
 Paolina Massidda and Dmytro Suprun

From: Trial Chamber V Communications [REDACTED]
Sent: 14 February 2023 14:11
To: OTP CAR IIB [REDACTED]; D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Cc: Chamber Decisions Communication [REDACTED]; Trial Chamber V Communications [REDACTED]
Subject: Order concerning the 'Report of legal Adviser to witness P-0487 Pursuant to Rule 74 of the Rules', ICC-01/14-01/18-1751-Conf-Exp

Dear counsel, dear colleagues from the Registry,

The Single Judge takes note of the 'Report of legal Adviser to witness P-0487 Pursuant to Rule 74 of the Rules of Procedure and Evidence', 14 February 2023, ICC-01/14-01/18-1751-Conf-Exp, confidential *ex parte*, only available to the Prosecution.

Noting the classification of this request and that P-0487's testimony is scheduled to commence on Thursday 16 February 2023, the Single Judge instructs Ms Bwiza to file a confidential version, with redactions as needed, by today.

The Single Judge instructs the Registry to immediately inform Ms Bwiza of this decision.

The Single Judge further instructs the participants to submit their responses to the request, if any, by tomorrow, Wednesday 15 February 2023, at 12:00.

Kind regards, TC V