

ANNEX XLII

PUBLIC

From: Trial Chamber IX Communications
Sent: 23 October 2018 12:32
To: [REDACTED]

Cc: Trial Chamber IX Communications; [REDACTED]
Subject: RE: Request from D26-0074

Dear Parties,

The Trial Chamber considers it appropriate for D-74 to pray according to his religious beliefs outside the courtroom, before the hearing begins.

The Trial Chamber instructs VWU to inform the witness of this determination.

Kind regards,
 Trial Chamber IX

From: [REDACTED]
Sent: 22 October 2018 17:53
To: [REDACTED] Trial Chamber IX Communications; [REDACTED]
Subject: RE: Request from D26-0074

Dear Trial Chamber IX,

After speaking with Co-Counsel, he requests that I note Article 68 of the Rome Statute, "Protection of the victims and witnesses and their participation in the proceedings".

Article 68(1) requires the "[t]he Court [...] [to] take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses. In so doing, the Court shall have regard to all relevant factors, including age, gender as defined in article 7, paragraph 3, and health, and the nature of the crime."

The Defence notes that the second sentence is not an exhaustive list. The witness does not ask that the Court partake in the prayer, but merely that he be given a rather short amount of time to respect his religious beliefs. His microphones can be disabled for this period so that he beliefs are respected.

Very best,

[REDACTED]

Ext. [REDACTED]

From: [REDACTED]
Sent: Monday, October 22, 2018 5:00 PM
To: [REDACTED] Trial Chamber IX Communications; [REDACTED]

[REDACTED]

Subject: RE: Request from D26-0074

I am sorry to appear awkward, but the Prosecution resists this application.

There should be no public displays of religious practice in the courtroom. That is one reason why the witness 'oath' at the ICC has no reference to the divine, but is solely a promise to the court.

The witness should make whatever religious devotions he wishes to undertake in private, before he enters the courtroom.

Ben Gumpert

From: [REDACTED]

Sent: 22 October 2018 16:47

To: Trial Chamber IX Communications; [REDACTED]

[REDACTED]

Subject: Request from D26-0074

Dear Trial Chamber IX,

During the Defence's courtesy meeting with D26-0074, the witness asked the Defence if it was okay to pray after taking the oath. He stated that it would take about 30 seconds to say the prayer.

The witness is a Born Again Christian and preacher.

Very best,

[REDACTED]