

ANNEX 18

Public Redacted

From: Trial Chamber VI Communications
Sent: 19 February 2024 13:43
To: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV; Associate Legal Officer-Court Officer
Cc: Chamber Decisions Communication; Trial Chamber VI Communications; [REDACTED]
Subject: RE: Délai pour répondre à l'écriture ICC-01/14-01/21-692-Conf

[ICC] RESTRICTED

Dear Parties and participants,

Dear Registry,

The Chamber has taken note of the Prosecution's email.

First, in respect of annexes I to XVII to ICC-01/14-01/21-692, the Chamber notes that the Prosecution is not requesting any redactions to the annexes and therefore the Chamber sees no reason why they should remain *ex parte*.

Accordingly, the Chamber orders the Registry to reclassify the annexes as confidential.

Last, in respect to the Prosecution's request for an extension of time to notify the relevant documents containing amendments to the prior recorded testimonies, the Chamber grants the requested extension of time.

Kind regards,

Trial Chamber VI

From: [REDACTED] >
Sent: Friday, February 16, 2024 4:44 PM
To: Trial Chamber VI Communications <[REDACTED]>
Cc: Chamber Decisions Communication [REDACTED]; OTP CAR IIA Communications [REDACTED] D33 Said Defence Team <[REDACTED]>; Said LRV Team OPCV <[REDACTED]>; Associate Legal Officer-Court Officer [REDACTED], [REDACTED]
Subject: RE: Délai pour répondre à l'écriture ICC-01/14-01/21-692-Conf

Dear Trial Chamber VI,

The Prosecution shall not propose any redactions to the 17 annexes to the Registry transmission of the Declarations made by Witnesses P-1523, P-0529, P-0882, P-1825, P-1277, P-1427, P-1432, P-1970, P-2042, P-2295, P-2087, P-0100, P-2239, P-0966, P-2386, P-2337, and P-1424 pursuant to Rule 68(2)(b) of the Rules (Annexes I to XVII).

In relation to the second requirement, the Prosecution in consultation with the Registry requests the Chamber to extend the time limit to Friday, 23 February 2024, pursuant to Regulation 35 of the Regulations of the Court so that the Registry, in consultation with the Prosecution, in order to notify the relevant documents containing the amendments to the prior recorded testimonies, or at least provide a list with the references for each document and to which annex it is linked.

Best regards,

[REDACTED]
Sent on behalf of the SAID Prosecution Team

From: Trial Chamber VI Communications [REDACTED]
Sent: 16 February 2024 14:08
To: OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED] Associate Legal Officer-Court Officer [REDACTED], [REDACTED]
Cc: Trial Chamber VI Communications [REDACTED]; Chamber Decisions Communication [REDACTED]
Subject: RE: Délai pour répondre à l'écriture ICC-01/14-01/21-692-Conf

Dear Parties and participants,

The Chamber has taken note of the Defence's request for a suspension of the time limit to respond to the Registry's Transmission of the Declarations made by Witnesses P-1523, P-0529, P-0882, P-1825, P-1277, P-1427, P-1432, P-1970, P-2042, P-2295, P-2087, P-0100, P-2239, P-0966, P-2386, P-2337, and P-1424 pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence (the 'Rules') (#692) (the 'Registry Report') until the annexes thereto have been notified to it.

The Chamber observes that there can be no expectation for Parties to respond to filings if they have not been fully notified of them. There is thus no need for a formal suspension of the time limit. Moreover, the Chamber notes that there is, in principle, no expectation that the Parties respond to the Registry's transmission of the rule 68(2)(b) declarations and certifications. Indeed, the Registry Report merely serves as a vehicle to place the declarations and certifications on the record. This obviously does not prevent the Parties from filing observations or making requests in relation to said declarations and/or certifications, but such filings would not be considered responses pursuant to regulation 24 of the Regulation of the Court.

In any event, the Chamber hereby instructs the Prosecution to inform the Registry and the Chamber by Monday 19 February 2024 whether or not it will seek to redact the annexes to the Registry Report and to justify the requested redactions.

Moreover, the Chamber has noted that the annexes to the Registry Report often make reference to attached documents containing amendments to the Prior Recorded Testimony (the 'PRT') of the witnesses. However, said documents are not included in the annexes and no references have been provided. The Chamber therefore instructs the Registry, in consultation with the Prosecution, to either notify the relevant documents or at least provide a list with the references for each document and to which annex it is linked. The Chamber regrets that neither the witnesses' declarations, nor the certifying officer's certifications provide the necessary references.

Once the annexes have been notified to the Defence and the documents containing the amendments to the PRT's of the witnesses have been provided, the Parties have five working days to make submissions, if any.

To the extent that the amendments contain new information the Parties are instructed to try to come to an agreement as to how to deal with these amendments. This should be done within the aforementioned time limit, if further time is required then the Parties should seize the Chamber accordingly. At this juncture, the Chamber finds that simple corrections or clarifications regarding non-substantive matters are not to be considered as new information but rather as constituting part of PRT itself (see [ICC-01/05-01/13-1478-Red-Corr](#), paras 99-100; [ICC-02/04-01/15-1294](#), para. 25; and [ICC-01/04-02/06-2141-Red](#), para. 20). To the extent that agreement cannot be reached on certain amendments the Parties may seize the Chamber, which will decide accordingly.

Kind regards,

Trial Chamber VI

From: Jacobs, Dov [REDACTED]

Sent: 13 February 2024 15:40

To: Trial Chamber VI Communications <[REDACTED]>

Cc: D33 Said Defence Team [REDACTED] OTP CAR IIA Communications

[REDACTED]; Trial Chamber VI Legal Team [REDACTED] Said

LRV Team OPCV <[REDACTED]>

Subject: Délai pour répondre à l'écriture ICC-01/14-01/21-692-Conf

Chère Chambre de première instance,

Le 8 février 2024, le Greffe déposait la « Registry's Transmission of the Declarations made by Witnesses P-1523, P-0529, P-0882, P-1825, P-1277, P-1427, P-1432, P-1970, P-2042, P-2295, P-2087, P-0100, P-2239, P-0966, P-2386, P-2337, and P-1424 pursuant to Rule 68(2)(b) of the Rules of Procedure and Evidence » (ICC-01/14-01/21-692-Conf).

A ce stade, les 17 annexes, qui sont les attestations établies selon la procédure prévue à la règle 68(2)(b)(ii) du Règlement de procédure et de preuve, sont confidentielles et *ex parte*, disponible uniquement pour le Greffe et l'Accusation, le Greffe précisant que : « The annexes to the present submission are classified as confidential *ex parte* only available to the Prosecution and the Registry because they contain the identifying information of Witnesses P-1523, P-0529, P-0882, P-1825, P-1277, P-1427, P-1432, P-1970, P-2042, P-2295, P-2087, P-0100, P-2239, P-0966, P-2386, P-2337, and P-1424. The Prosecution indicated on 20 November 2023 that it will review said annexes in order to possibly seek redactions thereto » (ICC-01/14-01/21-692-Conf, par. 3).

Dans ces circonstances, la Défense n'est pas, à l'heure actuelle, en capacité d'exercer son droit de répondre à la « Registry Transmission », conformément à la Norme 24(1) du Règlement de la Cour (« Le Procureur et la Défense peuvent présenter une réponse à tout document déposé par tout participant à la procédure, conformément au Statut, au Règlement de procédure et de preuve et au présent Règlement ainsi qu'à une ordonnance rendue par une chambre »).

Par conséquent, la Défense demande respectueusement à la Chambre de confirmer que le délai de 10 jours pour répondre à la « Registry Transmission » prévu à la Norme 34(b) du Règlement de la Cour ne commencera à courir qu'à partir de la notification à la Défense des 17 annexes à la « Registry Transmission ».

Bien à vous,

Dov Jacobs

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