

ANNEX 43
PUBLIC
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From: Trial Chamber V Communications
Sent: 29 June 2022 15:42
To: Office of the Director DJSS; [REDACTED]
Cc: Trial Chamber V Communications; Chamber Decisions Communication; OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer
Subject: Directions to the Registry regarding the appointment of counsel pursuant to Rule 74

Dear colleagues of the Registry,

The Single Judge has taken note of the Registry's '*Notification of the Appointment of Mr Jad Khalil as Legal Adviser to Witness P-1339*' (ICC-01/14-01/18-1487), submitted yesterday, 28 June 2022, at 16:14 and notified today at 11:01 (the 'Registry Appointment').

It is unclear on which basis the Registry appointed Mr Jad Khalil. While the Registry makes reference to the Chamber's '*Decision on the Prosecution Request for Appointment of Duty Counsel*' (ICC-01/14-01/18-857), the Single Judge notes that this decision did not order the appointment of counsel for this specific witness.

Moreover, the Single Judge notes the '*Prosecution's Third Request for the Appointment of Duty Counsel pursuant to Rule 74*' concerning P-1339 (ICC-01/14-01/18-1458-Conf), which was notified to the Registry and was still pending at the time of notification of the Registry Appointment.

The Single Judge notes that this is the third time that an appointment under Rule 74 was made by the Registry without an explicit order by the Chamber to do so. In this regard, the Single Judge recalls that counsel were also appointed for (i) P-2843 without any order from the Chamber or even a Prosecution request to that extent, and (ii) P-0954, due to a misunderstanding of the Chamber's directions to appoint counsel under Article 64(6)(b)(f) of the Statute and Rules 65(2) and 171 of the Rules.

Although the Single Judge has meanwhile ordered the Registry to appoint counsel for P-1339 (ICC-01/14-01/18-1491, filed at 10:34 and notified at 12:35 today) and thus sees no issue with the Registry Appointment for P-1339, he finds the repeated appointment of counsel in the absence of a Chamber order concerning. Going forward, the Single Judge expects the Registry to carefully check whether an order to appoint counsel exists before taking any action.

Kind regards, TC V