

ANNEX 15
PUBLIC
REDACTED

From: Trial Chamber V Communications
Sent: 19 May 2022 13:18
To: [REDACTED]; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; [REDACTED]
 [REDACTED] Court Management-Transcripts
Cc: OTP CAR IIB Operations; OTP CAR IIB Case Management; [REDACTED]
 [REDACTED] Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: RE: OTP Additional redactions to P-1811's transcripts
Attachments: ICC-01 14-01 18-T-115-CONF-FRA ET 31-03-2022 1-29 SZ T - Yekatom proposed redactions.pdf; OTP Additional redactions to P-1811's transcripts

Dear Counsel, dear colleagues from the Registry,

The Single Judge takes note of the Prosecution's proposal for additional redactions to transcript T-115 (*see* email attached) and the Yekatom Defence's objections to some of these redactions (the 'Contested Redactions') (*see* email below).

At the outset, the Single Judge recalls that, while exceptions might be warranted where specific circumstances so require, the general rule is that redactions to transcripts should be requested and applied *during the hearings*. In this regard, the Single Judge considers that, for the reasons indicated below, the Prosecution could and should have foreseen the need for most of the requested redactions during P-1811's testimony.

Moreover, the Single Judge notes his previous directions that the Prosecution should 'seize the Chamber with a [post-hearing] redaction request promptly, and in any case before the Registry's deadline to publish the redacted version expires' (that is, 'within two days of the notification of the edited confidential version', pursuant to the Initial Directions, ICC-01/14-01/18-631, para. 71) (*see* email from the Chamber, 7 July 2021, at 17:05). The Single Judge notes that while the edited version of T-115 was notified on 31 March 2022, the Prosecution did not submit its redaction request until 21 April 2022, providing no explanation for this delay. The Single Judge therefore reminds the Prosecution that he expects that such requests 'will be submitted only exceptionally and not delay the publication of the public redacted transcripts' (*see* email from the Chamber, 7 July 2021, at 17:05).

Notwithstanding the above, and to avoid putting P-1811 at risk by disclosing identifying information, the Single Judge assessed the Contested Redactions in line with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631, as well as the parties' related arguments.

In this regard, the Single Judge first notes that the public redacted version of the corrected version of the confirmation decision discloses to the public that P-1811 provides evidence about, *inter alia*, the following: (i) 'Yekatom was in charge of the Yamwara School base'; (ii) 'on or about 24 December 2013, Anti-Balaka elements stopped seven persons, including Saint Cyr Lapo N'Gomat and three Muslim women, at an Anti-Balaka checkpoint in or around Cattin' and, '[a]fter threatening them with death, the Anti-Balaka elements took these persons to the Yamwara School' (the 'Yamwara School Incident'); (iii) Saint Cyr Lapo N'Gomat was heard 'being beaten by the Anti-Balaka and crying', and 'was then taken away and has not been seen since'; (iv) other details about the Yamwara School Incident, including that the women were forced to undress, searched and interrogated; (v) '[t]he captives were [...] moved to and held in different locations by the Anti-Balaka'; (vi) 'Yekatom visited [the captives] at least once during their captivity'; and (vii) '[o]n or about 27 December 2013, the captives were released' (*see* ICC-01/14-01/18-403-Corr-Red, paras 113-117).

Second, the Single Judge notes the Prosecution's argument that additional redactions to the transcript T-115 are proposed 'in light of the information and details of the incident discussed in the public Decision ICC-01/14-01/18-1364-Red'. The Single Judge notes, however, that this decision solely reveals that P-1811 testified about, *inter alia*, 'the Yamwara School Incident and the alleged mistreatment and killing of Lapo N'Gomat' (ICC-01/14-01/18-1364-Red, para. 15, n. 25), information which was already publicly available, as set out above.

Consequently, the Single Judge considers that while general information related to the fact that P-1811 provides evidence about the Yamwara School Incident can be disclosed, specific details that could potentially reveal that she was part of the group of abductees in this incident should be redacted. Accordingly, the Single Judge grants the Prosecution's request to maintain the Contested Redactions in full, with the following exceptions, which should be lifted:

- (i) T-115-CONF-ENG, p. 9, line 3 ('not far from the *paillote*, the straw hut'), line 21 ('*paillote*, the straw hut');
- (ii) T-115-CONF-ENG, p. 16, lines 1 (from 'that the leader at') to 2 (until 'the *paillote*');)
- (iii) T-115-CONF-ENG, p. 17, lines 2 (from 'the leader at') to 3 (until '... or from the *paillote*,');
- (iv) T-115-CONF-ENG, p. 18, line 15 ('*paillote*'), line 24 ('*paillote*').

Furthermore, in line with the Contested Redactions granted, the Single Judge considers that *additional* redactions should be implemented for consistency purposes and to avoid rendering the Contested Redactions moot, as follows:

- (i) T-114-CONF-ENG, p. 6, lines 15 (from 'The son of my...') to 17 (until 'them of that death.');
- (ii) T-114-CONF-ENG, p. 8, lines 5 (from 'When he was beaten up,...') to 6 (until '...he had been killed.');
- (iii) T-114-CONF-ENG, p. 11, lines 21 (from 'when I went to the') to 22 (until 'funeral');
- (iv) T-114-CONF-ENG, p. 11, line 24 ('you went to');
- (v) T-115-CONF-ENG, p. 8, lines 23 (from 'with some') to 24 (until 'Anti-Balaka people');
- (vi) T-115-CONF-ENG, p. 9, line 25 ('told you that');
- (vii) T-115-CONF-ENG, p. 16, lines 2 (from 'When you') to 3 (until 'arrived at'), line 7 ('you arrived at'), and 11 ('when you arrived.');
- (viii) T-115-CONF-ENG, p. 16, line 3 ('other Anti-Balaka), line 8 ('of Anti-Balaka there');
- (ix) T-115-CONF-ENG, p. 22, lines 7 (from 'Anti-Balaka base...') to 8 (until '24 December 2013').

The Registry is directed to proceed in accordance with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631, for the English and French public redacted versions of transcripts T-114 and T-115.

Kind regards, TC V

From: [REDACTED]
Sent: 26 April 2022 14:24
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 Management-Transcripts [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
 [REDACTED]
 [REDACTED]
Subject: RE: OTP Additional redactions to P-1811's transcripts

Dear Trial Chamber V,
 Dear all,

The Yekatom Defence (the "Defence") respectfully objects to some of the suggested Prosecution's redactions to P-1811 transcript (the "Request"). The Defence provides in attachment an amended version of the Prosecution's Request, and in the table below an summary explanation for the various objections.

Opposed redaction	Defence argument
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Page 8, Ins 20-21 : « la première fois », « où vous avez été arrêtée alors que vous reveniez de l'hôpital Castor » Page 9, ls 5-7 : « l'hôpital Castor », « première » Page 9, Ins 10-11 : « l'endroit où vous avez été arrêtée, ce matin-là, »	The Defence contends that the information regarding the fact that P-1811 got arrested two times by the Anti-Balaka does not reveal her identity as the information is sufficiently general in the absence of more indication. This is especially the case in light of the high number of roadblocks that were set up during the events. Similarly, given the high number of persons who were going to the Castor hospital during the events, it is submitted that this information is also not susceptible to reveal the identity of the witness. The Defence contends that the redaction of “dans une ambulance” on pages 8 and 9 is sufficient as only this information is knowledgeable of the Anti-Balaka who first arrested them.
Page 8, Ins. 23-25 : « Vous avez été arrêtée alors que vous vous rendiez au domicile de », «vous avez été arrêtée la deuxième fois, l'après-midi »	The Defence contends that the information to the effect that P-1811 was going to someone's home is general in nature and not susceptible to reveal her identity. However the Defence does not contest the redaction of “de votre neveu décédé”, which is the identifying part of the this sentence. Moreover, and as indicated above, it is submitted that the information regarding the fact that P-1811 got arrested two times by the Anti-Balaka does not reveal her identity as the information is sufficiently general in the absence of more indication. This is especially the case in light of the high number of roadblocks that were set up during the events.
Page 9, ln. 12 : « vous avez été arrêtée, l'après-midi, pas loin de la paillotte »	The Defence contends that the information to the effect that P-1811 was arrested in the afternoon is sufficiently general as to no reveal her identity. Moreover, the it is submitted that the term “paillotte” (hut) without any more information is also sufficiently general.
Page 9, Ins 14-17 : « R. [09:50:31] Lorsque nous avons amené », « et nous sommes restés à cet endroit », « rentrer à la maison », « avons été arrêtés ».	The Defence submits that the contested redactions are not susceptible to reveal the identity of the witness. The mention of the fact that P-1811 was arrested when she was going home is non identifying in light of the fact that there is no indication about the owner of the house or its localisation.
Page 10, Ins. 2-5 : « vous avez été arrêtée à nouveau », « à côté de la maison »	As mentioned previously, the fact that P-1811 was arrested multiple times is not susceptible to identify her. The indication “à côté de la maison » is also sufficiently vague to not risk her identification, especially in light of the redaction applied to the owner of the house.
Page 10, Ins 7-8 : « paillotte à laquelle vous avez été arrêtée l'après-midi »	The Defence contends that the information to the effect that P-1811 was arrested in the afternoon is sufficiently general as to no reveal her identity. Moreover, the it is submitted that the term “paillotte” (hut) without any more information is also sufficiently general.
Page 11, ln 5 : « le jour où vous avez été arrêtée »	The Defence contends that the fact that P-1811 was arrested is not susceptible to identify her in light of the redaction applied to the “ambulance” which is the identifying part.
Page 12, Ins 6-11 : « est-ce que vous vous souvenez qu'il y avait, en plus de ce jeune homme [redacted] un autre jeune homme [redacted] ne autre personne, qui, lui, en revanche, a quitté	The Defence contends that by redacting the specific information “du quartier”, the information is sufficiently vague and general to not risk identifying P-1811 or the group she was part of.

le groupe au moment où vous avez été arrêtés à la barrière ? » , « qui vous a quittés à la barrière » .	
Page 16, Ins 5-9 : « Je voudrais maintenant venir m'intéresser au moment où vous arrivez à la base anti-balaka, c'est-à-dire le moment où vous avez quitté la barrière et vous arrivez à la base. » , « le chef de la paillotte vous a accompagnée à la base »	The Defence contends that the information is sufficiently general as to not identifying the witness, indeed numerous persons are susceptible to have visited the base during the relevant time period.
Page 16, Ins. 20-25 : « lorsque nous avons été arrêtés, nous avons les... le regard baissé » , « même si vous aviez généralement les yeux baissés, il y a des moments où vous regardiez un petit peu autour de vous. »	The Defence is of the view that the impossibility for P-1811 to evaluate the number of people present is not susceptible to identify her.
Page 17, all redactions. Additional redaction at ln 27 "qui était du quartier"	The Defence contends that the account of what transpired at the base on page 17 should be sufficiently general to not identify P-1811. The Defence contends that redacting the potentially identifying mention of "du quartier" at line 27 might be sufficient to allow for a lesser redacted version of the page. Alternatively, should the Chamber find that some redactions are warranted, the Defence requests the Chamber to assess whether some can be lifted.
All redactions (except the Chamber's ones)	The Defence contends that the redactions on lines 5 and 14-15 are not identifying as the status of P-1811 during the events is not revealed. Also the Defence requests the Chamber to assess whether or not the separation of the women and men is warranted to protect the identity of P-1811.
Page 19, Ins 2-12 : All redactions	The Defence requests the Chamber to assess whether the details about money and phones being taken need to be redacted to protect P-1811's identity.
Page 19, Ins 19-25 : « quand vous êtes arrivés à la base, est-ce que vous vous souvenez combien de temps » , « dehors »	The Defence contends that the beginning of the question regarding the duration of some events is not susceptible to identify P-1811 in light of the non-opposed redactions. The Defence is also of the view that the redaction of the location of the men "dehors" is not warranted as it does not identify anyone in absence of further specific information.
Page 21, all redactions.	The Defence contends that the redactions on page 21 are not warranted. Indeed, the Defence argues that the fact that a witness of this case was shown a documentary about Mr Yekatom and managed to recognised him can under no circumstances be considered as identifying.
Page 22, ln. 13 "première"	The Defence contends that without any more indication the comments of the witness on a video and her non identification of a person at a first base is not identifying, especially in light of the fact that there is no mention of the second one. Alternatively, the Defence contends that by redaction the date "24 décembre 2013", the word "première" can be left unredacted.

In light of the above, the Defence respectfully requests the Chamber to assess whether or not the Prosecution's redactions mentioned above are necessary to protect the identity of P-1811.

Kind regards,

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Sent: jeudi 21 avril 2022 15:26
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 [REDACTED]
Subject: OTP Additional redactions to P-1811's transcripts

Dear Trial Chamber,
 Dear All,

In respect of P-1811's testimony, please find attached the confidential English and French versions of the transcript T-115. The green highlights indicate the redactions already authorised by the Chamber.

Further, to ensure that P-1811 is not identifiable to the public, in light of the information and details of the incident discussed in the public Decision ICC-01/14-01/18-1364-Red ("Decision"), the Prosecution has proposed additional redactions to the open sessions of the transcript (highlighted in red) for which it requests the Chamber's authorisation. The Prosecution understands the private sessions of transcripts T-114 and T-115 to be redacted from the public version.

P-1811's testimony revealed to the public that she was abducted by the Anti-Balaka and taken together with others to an Anti-Balaka base under YEKATOM's control. The details of the incident, which could have identified the abductee group, had been kept from the public to avoid identification of the witness and heightening the risk of intimidation against the Prosecution's crime base witnesses, scheduled to testify later this year.

However, public information that P-1811's is a victim of the Yamwara School incident, in conjunction with the details of the incident in the Decision, *inter alia*, the name of the victim Saint Cyr LAPO N'GOMAT, the names of the Anti-Balaka involved (*i.e.*, Alfred YEKATOM aka Rombhot, 'ALKANTO', Coeur de Lion), the specifics of their mistreatment, and their move to Sylvester's base behind the M'Poko airport (*i.e.*, YAGOUZOU), reveals P-1811's identity. If not directly, *at minima* it identifies P-1811 as being one of the women in General MAMOUR's family.

The Prosecution therefore requests the Chamber's authorisation to add redactions to the transcript T-115 regarding the following topics, as proposed in the attached transcripts:

- P-1811's involvement in the funeral of her nephew, which would identify her as a victim of the incident; P-1811 and the other abductees provide their participation to the funeral as an explanation for them being together as a group, when interrogated by the Anti-Balaka (*see e.g.* T-114-CONF-ENG ET, p. 28, l. 3-13; CAR-OTP-2054-1136, at 1141, 1144, paras. 28, 41; CAR-OTP-2053-0112, at 0117, para. 38);
- P-1811's civilian status (*i.e.*, her being stopped by the Anti-Balaka prior to her abduction, her 'going home' instead of an Anti-Balaka base), as the presence of a female civilian (or rather female not engaged in the Anti-Balaka) on the Yamwara School grounds providing direct evidence on the Anti-Balaka conduct in relation to the male abductees would lead to her identification as a victim; it would be highly unlikely for other third parties to be involved in such an incident besides the Anti-Balaka and their victims;
- P-1811's victim status in relation to the Yamwara School incident.

In this respect, the Prosecution also requests that the transcripts concerned are not made public on the ICC website until the Chamber has determined the matter.

Kind regards,

On behalf of OTP Trial Team

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