

ANNEX 58
PUBLIC
REDACTED

From: Trial Chamber V Communications
Sent: 28 July 2022 16:37
To: [REDACTED]; Office of the Director DJSS; [REDACTED]
Cc: Associate Legal Officer-Court Officer; D29 Yekatom Defence Team; D30 Ngaïssona Defence Team; OTP CAR IIB Case Management; OTP CAR IIB Managers; OTP CAR IIB Operations; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Order on the Ngaïssona Defence Request for Reconsideration regarding the 'Decision on Registry Notification of a [REDACTED] regarding a [REDACTED] to Mr Ngaïssona'

Dear Counsel, dear colleagues of the Registry,

The Chamber takes note of the Ngaïssona Defence's request for reconsideration regarding the 'Decision on Registry Notification of a [REDACTED] regarding a [REDACTED] to Mr Ngaïssona' (see emails below) (the 'Reconsideration Request').

The Chamber notes the Ngaïssona Defence's submissions that sharing the Registry Notification and the transcript of Mr Ngaïssona's conversations with the other parties and participants, 'even in a redacted form, would lead to an injustice, as it would cause an unnecessary breach of Mr Ngaïssona's right to private life'.

The Chamber considers it necessary to review these documents before ruling on the Reconsideration Request. Therefore, the Chamber instructs the Registry to provide the Chamber with a redacted version of the Registry Notification and of the concerned transcript, as well as an unredacted version of the latter.

Kind regards,

TC V

From: [REDACTED]
Sent: 27 July 2022 13:30
To: Trial Chamber V Communications [REDACTED] Office of the Director DJSS
 [REDACTED]
 [REDACTED]
 [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED]; D29 Yekatom Defence Team [REDACTED] D30 Ngaïssona Defence Team [REDACTED] OTP CAR IIB Case Management [REDACTED]
 [REDACTED] OTP CAR IIB Managers [REDACTED]; OTP CAR IIB Operations [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]; Chamber Decisions Communication [REDACTED]
Subject: RE: Decision on Registry Notification of a [REDACTED] regarding a [REDACTED] to Mr Ngaïssona

Dear Trial Chamber V,

The Defence has taken note of the order to provide views on the "Registry's Notification of a [REDACTED]" and will do so within the indicated time-limit. Nonetheless, the Defence wishes to immediately bring to the attention of the Chamber that, having reviewed the Registry's Notification as well as the Transcript of Mr Ngaïssona's

Conversation, the issues raised therein relate to purely private and [REDACTED] related matters, that have no bearing on the proceedings against Mr Ngaïssona.

The Defence submits that sharing the Registry's Notification and Transcript of Conversation with the other parties and participants, even in a redacted form, would lead to an injustice, as it would cause an unnecessary breach of Mr Ngaïssona's right to private life. Article 21(3) of the Rome Statute provides that the application and interpretation of the Statute "must be consistent with internationally recognized human rights". Right to privacy of a suspect or accused person is protected under numerous internationally recognised human rights instruments (*inter alia* art. 12 of the UDHR, art. 17 of the ICCPR and art. 8 of the ECHR). Any unavoidable interference with the right to privacy should be limited as far as possible to that which is rendered strictly necessary by the specific features of the proceedings (see for instance ECHR, L.L. c. France, No 7508/02, 10 October 2006, para 45).

In light of the above, the Defence respectfully requests the Chamber to reconsider its order to share redacted versions of the Registry's Notification and Transcript of Conversation with the other parties and participants.

Thank you for your consideration.

Sincerely,

[REDACTED] on behalf of Counsel

From: Trial Chamber V Communications [REDACTED]

Sent: 27 July 2022 09:47

To: Office of the Director DJSS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Cc: Associate Legal Officer-Court Officer [REDACTED] D29 Yekatom Defence Team [REDACTED]; D30 Ngaïssona Defence Team [REDACTED] OTP CAR IIB Case Management [REDACTED] OTP CAR IIB Managers [REDACTED]; OTP CAR IIB Operations [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; Trial Chamber V Communications [REDACTED] Chamber Decisions Communication [REDACTED]
[REDACTED]

Subject: Decision on Registry Notification of a [REDACTED] regarding a [REDACTED] to Mr Ngaïssona

Dear colleagues of the Registry,

The Chamber takes note of the Registry's request to share 'with both the Defence and [REDACTED]' the transcript of a non-privileged telephone call between Mr Ngaïssona and a [REDACTED] on [REDACTED] (the 'Request') (see email from the Registry to the Chamber, 26 July 2022, at 14:29).

According to the Registry, this transcript contains information about a [REDACTED] of Mr Ngaïssona which will take place shortly and in relation to which the Registry has identified a number of [REDACTED].

In light of the above and noting the imminence of the [REDACTED], the Chamber considers that exceptional circumstances exist warranting the granting of the Request prior to the detained person being informed of it pursuant to Regulation 92(4) of the Regulations of the Court. The Request is therefore granted.

In accordance with this provision, the Chamber further orders that (i) the Registry share the Request with the Ngaïssona Defence as soon as possible together with the transcript in question, as well as with the rest of participants (with the necessary redactions); and (ii) the Ngaïssona Defence provide its views, if any, within one calendar day of receiving the Request and the transcript.

The Chamber invites the Registry to inform the [REDACTED]

Kind regards, TC V

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