

ANNEX 11

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 17 February 2023 10:26
To: D30 Ngaissona Defence Team; Court Management-Court Records
Cc: OTP CAR IIB; D29 Yekatom Defence Team; V44 LRV Team OPCV; V45 LRV Team; V44 LRV Team; Chamber Decisions Communication; Associate Legal Officer-Court Officer; Trial Chamber V Communications; Chamber Decisions Communication
Subject: Second Decision on the Ngaissona Defence's Requests for reclassification of transcript T-184-CONF
Attachments: RE: Request for reclassification of transcript

Dear Counsel,

The Single Judge takes note of the below email from the Prosecution and the Ngaissona Defence's renewed request to issue a lesser redacted version of transcript T-184 with some proposed redactions (see attached email from the Ngaissona Defence, 1 February 2023, at 12:02).

In order to expedite the proceedings, and noting that at this point no reasons exist to maintain the classification for the full transcript, the Single Judge grants the request. The Registry is instructed to publish a lesser redacted version, applying the redactions proposed by the Ngaissona Defence, within one week.

Kind regards, TC V

From: [REDACTED]
Sent: 08 February 2023 20:27
To: OTP CAR IIB [REDACTED]; Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; V44 LRV Team [REDACTED]; Chamber Decisions Communication [REDACTED] Associate Legal Officer-Court Officer [REDACTED] D30 Ngaissona Defence Team [REDACTED]
Subject: Re: Decision on the Ngaissona Defence's Requests for reclassification of transcript T-184-CONF

Dear Trial Chamber V,
 Dear All,

Pursuant to paragraph 72 of the Initial Directions on the Conduct of the Proceedings, the Ngaissona Defence objects to the Prosecution's position that no redactions should be lifted from the current public redacted transcript.

There is no legitimate reason or legal basis warranting the continued redactions to the entirety of the private session of transcript ICC-01/14-01/18-T-184 and the Prosecution fails to argue, in its below email, why the redactions continue to be warranted, and specify the exception to the right to a public hearing, which applies to these redactions. The publicity of the hearings is the default under Article 67 of the Statute and any detracting from it must be specified in the core texts of the Court.

The Prosecution merely bases its position on concerns that were expressed by the Presiding Judge before the discussions were held, rather than examining the content of the portions it seeks to maintain redacted and assessing whether such redactions continue to be necessary to this day and in light of the publicity of the issues discussed therein.

In addition, the Prosecution has failed to argue or point to any legal basis supporting its position that a discussion which contained alleged "[REDACTED], and political issues" warrants the classification "confidential" pursuant to the Regulations of the Court. The matters discussed in the private session were not limited to "[REDACTED] and political issues", which in any event do not warrant the sought classification. Lead Counsel applied for leave to appeal of public decision ICC-01/14-01/18-1684 and made submissions concerning the accused's right to a fair trial and effective legal representation. The limited and necessary references that were made to [REDACTED] concerned information which, as mentioned, are already in the public domain.

The Defence reiterates its request for the issuance of a lesser redacted transcript, as proposed in its email request of 01 February 2023.

Sincerely,

[REDACTED] *on behalf of the Ngaissona Defence*

From: OTP CAR IIB [REDACTED]
Sent: Wednesday, February 8, 2023 3:16 PM
To: Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] OTP CAR IIB [REDACTED]
 V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]; V44 LRV Team [REDACTED]
 [REDACTED] Chamber Decisions Communication [REDACTED]
 Associate Legal Officer-Court Officer <[REDACTED]> D30 Ngaissona Defence Team
 <[REDACTED]>
Subject: RE: Decision on the Ngaissona Defence's Requests for reclassification of transcript T-184-CONF

Dear Trial Chamber V,
 Dear All,

The Prosecution has reviewed the relevant transcript. However, we do not consider that a lesser redacted version is necessary or appropriate in this instance.

The Presiding Judge specifically ordered the private session in question, given the anticipated [REDACTED] and political issues to be raised by Defence Counsel (see T-184, p. 3, l.14-21). The Presiding Judge voiced concern that, in effect, the trial hearings in this case were not to be used for what may be perceived as political ends. Issuing a lesser redacted version of the transcript would undermine the rationale for this order, regardless of whether the same issues were also raised publicly in an appropriate forum. Thus, the Prosecution sees no justification to depart from the Order, and the transcript should stand as is. Thank you.

Kind regards,

On behalf of OTP Trial team

From: Trial Chamber V Communications [REDACTED]
Sent: 08 February 2023 11:54
To: D30 Ngaissona Defence Team [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] OTP CAR IIB <[REDACTED]>
 V44 LRV Team OPCV <[REDACTED]>; V45 LRV Team [REDACTED]; V44 LRV Team [REDACTED];
 [REDACTED]; Chamber Decisions Communication [REDACTED];
 Trial Chamber V Communications [REDACTED]; Associate Legal Officer-Court Officer
 [REDACTED]
Subject: Decision on the Ngaissona Defence's Requests for reclassification of transcript T-184-CONF

Dear Counsel,

The Single Judge recalls paragraphs 71-72 of the Initial Directions on the Conduct of the Proceedings, ICC-01/14-01/18-631, which stipulate the following:

71. The Registry shall make public the redacted version of the transcripts within two days of the notification of the edited confidential version. This version will exclude the private and/or closed sessions, as well as the passages for which the Chamber ordered redactions to be applied.

72. Thereafter, the calling participant shall review the public redacted version of the transcript and propose a lesser redacted version within 21 days of notification by the Registry. Within 10 days of receiving the proposed lesser-redacted version, the other participants may raise any objections. Should no objections to the proposed lesser-redacted version be made, the Registry shall file it in the record of the case with the appropriate document number designation.

The Single Judge sees no reason to depart from these directions in this instance.

Noting that the public redacted version of the transcript has been notified on 3 February 2023, he trusts that the Prosecution will proceed in accordance with paragraph 72 of the Initial Directions.

Kind regards, TC V

From: [REDACTED]
Sent: 01 February 2023 12:02
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]
Subject: RE: Request for reclassification of transcript

Dear Trial Chamber V,

Following the recent publication of edited confidential transcripts of the hearing of 5 December 2022 (ICC-01/14-01/18-T-184-CONF), the Ngaissona Defence respectfully requests the Chamber to order the publication of public redacted versions of said transcripts. The Defence requests that limited redactions be applied to information concerning Mr Ngaissona's medical condition, as proposed in the attached transcript at page 20. As far as all other information contained in the transcript is concerned, the Defence respectfully submits that nothing prevents its publication, given that information concerning the [REDACTED] undertaken by the Defence support staff is already in the public domain through defence motion ICC-01/14-01/18-1682-Corr and subsequent decision ICC-01/14-01/18-1684.

Sincerely,

[REDACTED]
 Case manager – Ngaissona Defence

From: [REDACTED]
Sent: 06 December 2022 20:52
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaissona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]
Subject: Request for reclassification of transcript

Dear Trial Chamber V,

From: [REDACTED]
Sent: 01 February 2023 12:02
To: Trial Chamber V Communications
Cc: D30 Ngaïssona Defence Team; D29 Yekatom Defence Team; OTP CAR IIB; V44 LRV Team OPCV; V45 LRV Team
Subject: RE: Request for reclassification of transcript
Attachments: ICC-01 14-01 18-T-184-CONF-FRA ET 05-12-2022 1-31 T.PDF

Dear Trial Chamber V,

Following the recent publication of edited confidential transcripts of the hearing of 5 December 2022 (ICC-01/14-01/18-T-184-CONF), the Ngaïssona Defence respectfully requests the Chamber to order the publication of public redacted versions of said transcripts. The Defence requests that limited redactions be applied to information concerning Mr Ngaïssona's medical condition, as proposed in the attached transcript at page 20. As far as all other information contained in the transcript is concerned, the Defence respectfully submits that nothing prevents its publication, given that information concerning the [REDACTED] undertaken by the Defence support staff is already in the public domain through defence motion ICC-01/14-01/18-1682-Corr and subsequent decision ICC-01/14-01/18-1684.

Sincerely,

[REDACTED]
Case manager – Ngaïssona Defence

From: [REDACTED]
Sent: 06 December 2022 20:52
To: Trial Chamber V Communications [REDACTED]
Cc: D30 Ngaïssona Defence Team [REDACTED]; D29 Yekatom Defence Team [REDACTED]; OTP CAR IIB [REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team [REDACTED]
Subject: Request for reclassification of transcript

Dear Trial Chamber V,

The Ngaïssona Defence respectfully requests that the transcript of Monday 5 December 2022's proceedings be reclassified as public. After review, it appears that nothing of a confidential nature was discussed and that as such, no impediment exists that would prevent the Chamber from ordering the reclassification.

Thank you and kind regards,

[REDACTED]
Associate Counsel, Ngaïssona Defence team

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The Ngaïssona Defence respectfully requests that the transcript of Monday 5 December 2022's proceedings be reclassified as public. After review, it appears that nothing of a confidential nature was discussed and that as such, no impediment exists that would prevent the Chamber from ordering the reclassification.

Thank you and kind regards,

[REDACTED]

Associate Counsel, Ngaïssona Defence team

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