

ANNEX 18

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 09 March 2023 13:33
To: OTP CAR IIB; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team; V44 LRV Team OPCV; V45 LRV Team
Cc: Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: Decision on the Ngaissona Defence Reconsideration Request of Decision on the Request for reclassification of filing ICC-01/14-01/18-1674-Conf

Dear Counsel,

The Single Judge takes note of the Ngaissona Defence's request and the Prosecution's response thereto (see emails below).

The Single Judge recalls that, in his previous decision, he found that information contained in the Ngaissona Defence's filing ICC-01/14-01/18-1674-Conf had been redacted by the Prosecution in its related filing ICC-01/14-01/18-1671-Red and considered these redactions to be warranted. The Single Judge notes that he alluded, in particular, to the references to [REDACTED]

While the Single Judge takes note of the Ngaissona Defence's submissions that this information was discussed in open session during the hearing of [REDACTED] he notes that there is currently no public redacted version available of the corresponding transcript.

Thus, and seeing no other reasons warranting reconsideration of his decision, the Single Judge rejects the request.

Kind regards, TC V

From: OTP CAR IIB [REDACTED]
Sent: 07 March 2023 15:11
To: [REDACTED] Trial Chamber V Communications
[REDACTED] OTP CAR IIB [REDACTED] D29 Yekatom Defence Team
[REDACTED] D30 Ngaissona Defence Team
[REDACTED] V44 LRV Team [REDACTED]; V44 LRV Team OPCV
[REDACTED]; V45 LRV Team [REDACTED]
Cc: Associate Legal Officer-Court Officer [REDACTED] Chamber Decisions Communication [REDACTED]
Subject: RE: Decision on the Request for reclassification of filing ICC-01/14-01/18-1674-Conf
Importance: High

Dear Trial Chamber V,

Dear All,

The Prosecution opposes the Defence Request. None of the criteria required for the Chamber to reconsider of its Decision are met. There is no clear error of reasoning, nor is there any semblance of injustice that may otherwise result. Notwithstanding that certain information elicited by the Defence during a lengthy and contentious examination of P-2625 found its way into the public record, the Prosecution does not believe that the redactions applied to ICC-01/14-01/18-1671-Red warrant lifting. Neither does the Chamber's conclusion that they "are warranted" require reconsideration.

If the Chamber is inclined to consider the merits of the Request, it bears noting that there is absolutely no compelling *public interest* in the redacted information contained in the filing. Moreover, some of the redacted information concerns the circumstances of a cooperating State Party's domestic investigations communicated to the Prosecution on a strictly confidential bases, and to which the Defence was made privy. The heightened scrutiny related to the divulgation of information concerning matters bearing on State cooperation as between the Parties (*see e.g.*, ICC-01/12-01/18-768-Red, paras. 6; ICC-01/12-01/18-859-Red, paras. 9, 13), much less *publicly* – are not overcome by merely blanket assertions.

As applied, the redactions in ICC-01/14-01/18-1671-Red do not infringe in any appreciable way (if at all) any statutorily protected interest or right. Applying the principle of publicity under the Statute is not measured on the basis of every individual witness or piece of evidence, but rather in the broader context of the proceedings as a whole. As such, there is no danger of any statutory violation in the circumstances. The Request does not make that assertion, and the conduct of the trial to date does not permit any such suggestion.

Thank you for your consideration.

Kind regards,

Kweku Vanderpuye



Cour
Pénale
Internationale
International
Criminal
Court



Kweku Vanderpuye

Senior Trial Lawyer
Prosecution Division
International Criminal Court
Oude Waalsdorperweg 10
2597 AK The Hague, The Netherlands
[REDACTED]
www.icc-cpi.int

From: [REDACTED]

Sent: 01 March 2023 14:33

To: Trial Chamber V Communications [REDACTED]; OTP CAR IIB [REDACTED]
D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team
[REDACTED]; V44 LRV Team [REDACTED] V44 LRV Team OPCV
[REDACTED]; V45 LRV Team [REDACTED]

Cc: Associate Legal Officer-Court Office [REDACTED] Chamber Decisions
Communication [REDACTED]

Subject: RE: Decision on the Request for reclassification of filing ICC-01/14-01/18-1674-Conf

Dear Trial Chamber V,

The Defence for Mr Ngaissona ('Defence') has taken note of the Chamber's decision regarding the reclassification request of filing ICC-01/14-01/18-1674-Conf.

At the outset, the Defence notes that the Prosecution's PRV was filed after the deadline set by the Chamber, which was set to "within one week of P-2625 having concluded his testimony" (see ICC-01/14-01/18-1671-Red, page 9). The Defence submitted all the requested PRVs, as well as the reclassification request, by 31 January 2023 and, absent a PRV from the Prosecution, applied the redactions based on the transcripts from P-2625's in-court testimony.

As far as the redactions applied in filing ICC-01/14-01/18-1671-Red, the Defence submits that these redactions are unwarranted, as the information is in the public domain.

First, the date of [REDACTED] and the fact that this was carried out/produced by the [REDACTED]

Second, the fact that [REDACTED]

For these reasons, the Defence kindly requests the Chamber to reconsider its decision, and allow the reclassification of filing ICC-01/14-01/18-1671-Red.

Sincerely,

[REDACTED]
[REDACTED]
Case Manager – Ngaïssona Defence Team
International Criminal Court (ICC)
Telephone number: [REDACTED]
[REDACTED]
www.icc-cpi.int

From: Trial Chamber V Communications [REDACTED]
Sent: 28 February 2023 16:21
To: OTP CAR IIB [REDACTED] D29 Yekatom Defence Team [REDACTED];
D30 Ngaïssona Defence Team [REDACTED]; V44 LRV Team
[REDACTED]; V44 LRV Team OPCV [REDACTED]; V45 LRV Team
[REDACTED] >
Cc: Associate Legal Officer-Court Officer [REDACTED]; Chamber Decisions
Communication [REDACTED]; Trial Chamber V Communications
[REDACTED]
Subject: Decision on the Request for reclassification of filing ICC-01/14-01/18-1674-Conf

Dear counsel,

The Single Judge takes note of the Ngaïssona Defence's request to reclassify filing ICC-01/14-01/18-1674-Conf to public.

Noting that information contained in this filing has been redacted by the Prosecution in its related filing ICC-01/14-01/18-1671-Red and considering that these redactions are warranted, the Single Judge rejects the request and instructs the Ngaïssona Defence to file a public redacted version of filing ICC-01/14-01/18-1674-Conf in line with the redactions applied to filing ICC-01/14-01/18-1671-Red.

Kind regards, TC V

From: [REDACTED]
Sent: 30 January 2023 16:59
To: Trial Chamber V Communications <[REDACTED]>
Cc: D30 Ngaïssona Defence Team [REDACTED]; D29 Yekatom Defence Team
[REDACTED] V44 LRV Team OPCV [REDACTED]; V45 LRV Team
[REDACTED]; V44 LRV Team [REDACTED] OTP CAR IIB [REDACTED]
Subject: Request for reclassification of filing ICC-01/14-01/18-1674-Conf

Dear Trial Chamber V,

The Defence of Mr Patrice-Edouard Ngaïssona ("the Defence") hereby respectfully requests that filing ICC-01/14-01/18-1674-Conf, titled "Ngaïssona Request for leave to Reply to the "Prosecution's Response to the Ngaïssona Defence Motion for Disclosure" (ICC-01/14-01/18-1671-Conf)" and dated 22-11-2022, be reclassified as "Public".

After a careful review, the Defence is of the view that none of the information mentioned in the aforementioned document warrants redaction and that the entirety of the document can be reclassified as Public.

We thank you for your consideration.

Sincerely yours,

[REDACTED]

[REDACTED]
 Case Manager – Ngaïssona Defence Team
 International Criminal Court (ICC)
 Telephone number: [REDACTED]
www.icc-cpi.int

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