

Annex 4

Public Redacted

From: Trial Chamber VI Communications
Sent: 23 April 2024 09:36
To: D33 Said Defence Team; Said LRV Team OPCV; OTP CAR IIA Communications
Cc: Chamber Decisions Communication; Trial Chamber VI Communications
Subject: Decision on request for lifting of redactions to ICC-01/14-01/21-744

[ICC] RESTRICTED

Dear parties and participants,

The Chamber has considered the Defence's request for the lifting of redactions to the Common Legal Representative's request for reconsideration (#744) and annexes thereto.

The Chamber notes that it previously approved the redaction of the identity of a/70286/22, the identity of his brother, as well as the date of his brother's alleged death. The Chamber sees no reason to vary these protective measures.

However, the Chamber is not persuaded by the CLRV's argument that there is a need to redact the information about the identity of the civil registrar who issued the 'Attestation sur l'honneur'. In order to minimise the risk of identification of a/70286/22's brother (and thereby the rest of his family), the Chamber finds that it is prudent to redact the precise date of the Attestation. The Chamber accordingly instructs the CLRV to (i) lift redactions to paragraph 27 of its request and (ii) file a lesser redacted version of ICC-01/14-01/21-744-Anxl-Red. The information concerning the identity of a/70286/22's brother, the exact date of his alleged death, and the exact date on which the attestation was issued may remain redacted.

The response deadline will start running as soon as the lesser redacted versions have been notified to the Defence.

Kind regards,
 Trial Chamber VI

From: Pellet, Sarah [REDACTED]
Sent: Thursday, April 18, 2024 9:08 PM
To: Trial Chamber VI Communications [REDACTED] Trial Chamber VI Legal Team
 [REDACTED]
 [REDACTED] OTP CAR IIA Communications
 <[REDACTED]> D33 Said Defence Team [REDACTED] Naouri,
 Jennifer <[REDACTED]>; Jacobs, Dov [REDACTED] Associate Legal Officer-Court Officer
 [REDACTED]
Subject: RE: Ecriture ICC-01/14-01/21-744-Conf-Red/demande de levée d'expurgation

[ICC] RESTRICTED

Dear Trial Chamber VI,

The Common Legal Representative respectfully submits that the Defence's below request should be rejected for the following reasons.

First, the redactions concerned are fully justified, since they pertain to identifying, victim-related information, as explained in her request for reconsideration in accordance with regulation 23 *bis* of the Regulations of the Court ([No. ICC-01/14-01/21-744-Conf-Red](#), para. 17). As such, they are in line with the Chamber's instructions to "apply such redactions as are necessary to safeguard the safety and well-being of the applicants" (See the "Decision on matters relating to the participation of victims during the trial" (Trial Chamber VI), [No. ICC-01/14-01/21-278](#), 13 April 2022, para. 23).

In particular, the Common Legal Representative notes that the redactions applied to her request ([No. ICC-01/14-01/21-744-Conf-Red](#), paras. 27 and 32) are very few in number and strictly limited to information which was equally redacted by the Registry, in line with the Chamber's instructions, in Victim a/70286/22's application for participation ([No. ICC-01/14-01/21-651-Conf-Anx1-Red](#)). Identically, the redactions applied to Annex I ([No. ICC-01/14-01/21-744-AnxI-Red](#)) are limited to identifying information and are, again, in line with the redactions applied by the Registry to the death certificate provided by Victim a/70286/22 in his application. As for Annex II ([No. ICC-01/14-01/21-744-Conf-Exp-AnxII](#)), the Common Legal Representative explicitly informed the parties that it contains photographs of the funeral ceremony of Victim a/70286/22's brother's, showing close relatives and neighbours ([No. ICC-01/14-01/21-744-Conf-Red](#), para. 33). All of the people concerned are clearly identifiable, and it is therefore obvious that disclosing said photographs would unnecessarily put their safety and well-being at risk.

Second, the Common Legal Representative recalls that the Chamber already considered and rejected arguments by the Defence regarding redactions applied by the Registry to Victim a/70286/22's application. Concretely, the Chamber concluded that the Registry had complied with its instructions and that the applied redactions were not prejudicial and did not violate the accused's rights (See the "Decision authorising 20 victims to participate in the proceedings" (Trial Chamber VI), [No. ICC-01/14-01/21-331](#), 27 May 2022, para. 11). In other words, the Defence merely attempts to relitigate the matter by seeking, once more, access to pages 13 and 14 of Victim a/70286/22's application ([No. ICC-01/14-01/21-651-Conf-Anx1-Red](#)). The Common Legal Representative sees no reason for the Chamber to depart from its previous findings in this regard, especially since the Defence does not provide any new arguments on the issue.

Finally, the Common Legal Representative submits that the redacted information is not necessary for the Defence in order to provide a meaningful response to her request for reconsideration, and that it is not the Defence's role to verify the authenticity and probative value of the official documents provided. Indeed, following identical submissions from the Defence on the matter, the Chamber concluded as follows:

"[...] The victim application process is not a mini-trial to determine for each individual victim whether they actually suffered harm as a result of crimes for which the accused can be held responsible. Such questions only arise, if at all, during the reparations process, in the event that a conviction is entered. It is thus incorrect to suggest, as does the Defence, that the victim application process involves an adversarial procedure (débat contradictoire) which requires the parties thereto to have full access to all sorts of detailed information about each individual applicant. The parties must have the opportunity to make meaningful submissions, but they are neither claimant nor opponent in this process. Ultimately, it is the Chamber's responsibility to determine, with the help of the Registry and in light of the parties' submissions, which applicants should be authorised to participate in these proceedings. Given this limited review, there is no need to receive detailed evidentiary or legal submissions from the parties or to conduct extensive litigation in relation to each individual application." (See the "Decision authorising 20 victims to participate in the proceedings" (Trial Chamber VI), [No. ICC-01/14-01/21-331](#), 27 May 2022, paras. 9 and 10).

The Common Legal Representative posits that the Defence is therefore fully able to make meaningful submissions on her request for reconsideration, as well as on Victim a/70286/22's application, within the limits of its prerogatives, on the basis of all relevant information in its possession.

For these reasons, the Common Legal Representative respectfully requests the Chamber to reject the Defence's requests.

Kind regards,

Sarah Pellet

From: Jacobs, Dov [REDACTED]
Sent: 18 April 2024 16:40
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED]; Said LRV Team OPCV [REDACTED]
 [REDACTED] D33 Said Defence Team [REDACTED]; Naouri, Jennifer
 [REDACTED] Associate Legal Officer-Court Officer [REDACTED] >
Subject: Ecriture ICC-01/14-01/21-744-Conf-Red/demande de levée d'expurgation

[ICC] RESTRICTED

Chère Chambre de première instance VI,

La Défense a pris note de la « Common Legal Representative's request for reconsideration of Trial Chamber VI's decision denying Victime a/70286/22 autorisation to participate in the proceedings » (ICC-01/14-01/21-744-Conf-Red) déposée par la Représentante légale des victimes le 16 avril 2024.

Il apparaît que certaines informations sont expurgées dans la requête (par. 27, par.32). Par ailleurs, l'Annexe I (ICC-01/14-01/21-744-AnxI-Red) est très fortement expurgée, rendant très difficile sa lecture. Enfin, dans la requête, il est fait mention d'une autre annexe qui serait constituée de photographies des funérailles de la victime alléguée (par.33), mais la Défense n'a pas été notifiée de cette annexe.

Enfin, la Défense relève que la requête porte aussi sur l'analyse et la valeur à donner à des documents administratifs joints à la demande de participation de a/70286/22 (par.27-28). Or, ces documents sont fortement expurgés (cf. ICC-01/14-01/21-651-Conf-Anx1-Red, p. 13 et 14), ce qui ne permet pas de pouvoir procéder aux vérifications nécessaires en lien avec leur authenticité et valeur probante (Sont par exemple expurgées les informations relatives aux personnes qui ont établi les documents, la date d'établissement, etc.).

La RLV et le Greffe ne justifient pas de l'apposition de telles expurgations qui ne permettent pas à la Défense de comprendre la teneur de ces documents, et donc d'exercer son droit de réponse.

Dans la mesure où ces éléments sont discutés devant la Chambre, la Défense doit pouvoir présenter sa réponse de manière informée et utile, dans le plein respect des droits fondamentaux de Monsieur Said et du principe du contradictoire, et donc avoir accès aux informations utiles.

Par conséquent, la Défense demande respectueusement à la Chambre d'ordonner:

- 1) à la RLV de communiquer à la Défense des versions non expurgées (ou moins expurgées) de la requête ICC-01/14-01/21-744-Conf-Red et de son annexe ICC-01/14-01/21-744-AnxI-Red, ainsi que de rendre accessible à la Défense l'Annexe ICC-01/14-01/21-744-AnxII ;
- 2) au Greffe de communiquer à la Défense des versions non expurgées (ou moins expurgées) des pages 13 et 14 de la demande ICC-01/14-01/21-651-Conf-Anx1-Red.

Bien à vous,

Dov Jacobs

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