

ANNEX 12

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 16 May 2024 10:47
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 Prosecution Urgent Request for Authorisation to Disclose D30-4885 Items to the Abd-Al-Rahman Defence

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the request below, which is unopposed by the rest of participants.

Having reviewed the items in question, and noting that their disclosure to the *Abd-Al-Rahman* Defence would not negatively impact the security and safety of any witness in the present case, the Single Judge grants the request.

Kind regards,

TC V

From: [REDACTED]
Sent: Thursday, May 16, 2024 7:27 AM
To: [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: OTP CAR IIB [REDACTED]; V44 LRV Team [REDACTED]; V44 LRV Team OPCV [REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED] D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED]
Subject: RE: Urgent request for authorisation to disclose items related to CAR-D30-4885 in the Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb") case

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber V,

The Yekatom Defence takes note of the Prosecution's "*Urgent request for authorisation to disclose items related to CAR-D30-4885 in the Prosecutor v. Ali Abd-Al-Rahman ("Ali Kushayb") case*" sent by email yesterday, 15 May 2024 at 12:18.

The Yekatom Defence wishes to inform the Chamber that it does not oppose to the Prosecution's above-mentioned request.

Kind regards,

[REDACTED]
Yekatom Defence

De : [REDACTED] >

Envoyé : mercredi 15 mai 2024 18:22

À : [REDACTED] Trial Chamber V Communications [REDACTED]
[REDACTED]

Cc : OTP CAR IIB [REDACTED] V44 LRV Team [REDACTED]; V44 LRV Team OPCV
[REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer
[REDACTED] D29 Yekatom Defence Team
[REDACTED]; D30 Ngaissona Defence Team [REDACTED]

Objet : Re: Urgent request for authorisation to disclose items related to CAR-D30-4885 in the Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb") case

[ICC] RESTRICTED

Dear Trial Chamber,

I am writing on behalf of the Ngaissona Defence. The Defence does not object to the Prosecution's urgent request to disclose the specified material as proposed.

Kind regards,
[REDACTED]

From: [REDACTED]

Sent: Wednesday, May 15, 2024 12:18 PM

To: Trial Chamber V Communications [REDACTED]

Cc: OTP CAR IIB [REDACTED] V44 LRV Team [REDACTED] V44 LRV Team OPCV
[REDACTED]; V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer
[REDACTED] D29 Yekatom Defence Team
[REDACTED] D30 Ngaissona Defence Team [REDACTED]

Subject: Urgent request for authorisation to disclose items related to CAR-D30-4885 in the Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb") case

[ICC] RESTRICTED

Dear Trial Chamber V,

The Prosecution urgently requests the authorisation of Trial Chamber V to disclose items relating to Witness CAR-D30-P-4885 (DAR-D31-P-0037) ("Witness") in the case of *Prosecutor v. Yekatom and Ngaissona* to the Defence in the case of *Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman ("Ali Kushayb")*. Specifically, the Prosecution seeks authorisation to disclose the Witness's expert report (CAR-D30-0018-0040) and the Microsoft Teams internal transcript of an interview conducted by the Prosecution with the Witness on 29 January 2024 ("Two Items"). The Prosecution seeks the Chamber's authorisation to disclose the Two Items since they are classified as confidential.

This request is urgent since the Witness, who was originally expected to testify in the *Abd-Al-Rahman* case on 4 June 2024, will now testify on 21 May 2024 (confirmed by Trial Chamber I today at 6:49am). The witness preparation session is scheduled for 17 May 2024.

The Two Items are relevant in the *Abd-Al-Rahman* case since they contain the Witness's expert opinion on issues also addressed in his report in that case, in particular, with respect to user authentication and attribution of Facebook accounts.

The audio recordings of the 29 January 2024 interview, which the Prosecution is not seeking authorisation to disclose, are registered at CAR-OTP-00025690, CAR-OTP-00025691, CAR-OTP-00025692 and CAR-OTP-00025693. The transcript of interview has not been registered or formally disclosed, but a courtesy copy was provided to the Chamber and the Parties by email on 28 February 2024, at 17:12 (*see* Email from the Prosecution titled “RE: Decision and Order concerning ICC-01/14-01/18-2351-Conf and ICC-01/14-01/18-2361-Conf”). For convenience, a copy is attached to the present email.

Since protective measures have not been requested for the Witness in either case, and the Two Items do not otherwise contain information identifying any person as a witness in the *Yekatom and Ngaissona* case, regulation 42(2) of the Regulations of the Court does not apply in this instance. In addition, disclosure of the Two Items will not negatively impact the security and safety of any witness.

With respect to safeguarding the confidentiality of the Two Items, the Prosecution will apply standard redactions as necessary, and further notes that the *Abd-Al-Rahman* Defence is bound by confidentiality obligations pursuant to article 8 of the Code of Professional Conduct for counsel and the protocol on the handling of confidential information applicable in that case (Protocol on the Handling of Confidential Information During Investigations and Contact Between a Party or Participant and Witness of the Opposing Party or of a Participant, [ICC-02/05-01/20-116-Anx2](#)).

For the above reasons, the Prosecution respectfully requests the Chamber to authorise the disclosure of the Two Items.

Kind regards,
On behalf of OTP Trial Team

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