

ANNEX 9

Public Redacted

Version

From: Trial Chamber V Communications
Sent: 12 March 2025 17:25
To: OTP CAR IIB; Trial Chamber V Communications; Court Management-Court Records; Associate Legal Officer-Court Officer
Cc: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Chamber Decisions Communication
Subject: Decision on the Prosecution's request to conduct its review of corrected transcripts on a rolling basis

[ICC] RESTRICTED

Dear Counsel,

The Single Judge takes note of the below request.

While he appreciates the burden on the parties to apply redactions to multiple corrected versions over the years, he also recalls that many of the pertinent transcripts have been available to the Prosecution for extended periods of time and the matter could thus have been resolved earlier. Further noting the need for the publicity of these transcripts, the Single Judge cannot accept the Prosecution's generic proposal of '*clearing [the transcripts] on a rolling basis*' without any definite deadline. Accordingly, he rejects the request.

This decision is without prejudice to a new motion containing a specific and reasonable request to extend the deadline set in the Chamber's decision of 4 March 2025 (see email below).

Kind regards, TCV

From: OTP CAR IIB [REDACTED]
Sent: 11 March 2025 15:20
To: Trial Chamber V Communications [REDACTED]; Court Management-Court Records [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED] V45 LRV Team [REDACTED] OTP CAR IIB [REDACTED]
Subject: RE: Decision on the Prosecution's request regarding removal from the website and restrict access to Court transcripts

[ICC] RESTRICTED

Dear Trial Chamber V,

Dear All,

The Prosecution appreciates the Chamber's consideration and will endeavour to meet the new deadline. However, completing a definitive assessment of the corrected transcripts ("CT") is substantially more involved than the Chamber may be aware of. As such, we believe that clearing them on a rolling basis may be more realistically achievable, and seek the Chamber's authorisation accordingly. To that end, it is important to recall some of the history leading to the current situation.

On 20 August 2021, serious difficulties encountered in respect of the implementation of transcript corrections led the Chamber to suspend the deadline set out at paragraph 73 of the Initial Directions on the conduct of the Proceedings “until appropriate remedies have been determined” (see email of 20 August 2021 at 10:27).

In the precipitating discussions, the Yekatom Defence noted inter alia “its request that corrected transcripts be issued expeditiously, noting for instance that transcript verification requests issued over two and a half months ago remain pending” and that “[it] continues to divert its limited resources towards the systematic review of transcripts of witnesses in English and French, which it is respectfully submitted is both disproportionate and unsustainable” (see email of 17 August 2021 at 14:51). The Ngaissona Defence observed that “the fact that the English and French transcripts are not received at the same time significantly hinders the detection of errors” (see email of 13 August 2021 at 17:27). Similarly, the Prosecution raised the importance of addressing issues concerning the corrections of transcripts “at the earliest, such that it can be resolved acceptably to all concerned and the transcript corrections process resumed and effected without overburdening the Parties, as the Chamber clearly intended. As the case is now, the deadlines are infeasible” (see email of 12 August 2021 at 18:08).

In seeking to remedy these matters, the Chamber directed that English and French edited transcripts (“ET”) be made available at the same time, and that corrected transcripts (“CT”) be notified as early as possible (i.e., promptly) “to avoid any detrimental impact on the workflow of the Chamber and the Participants” (see email 22 September 2021 at 15:21 (emphasis added)).

Notwithstanding the remedy devised by the Chamber, its practical implementation was not fully realised. As the following sample reflects, English and French ETs have not consistently been notified contemporaneously, nor have CT versions been neither definitive nor consistently provided promptly:

T-126 regarding P-1193’s 2 May 2022 testimony, involving multiple CT versions:

ICC-01/14-01/18-T-**126**-CONF-**FRA ET** 02-05-2022 1-89 SZ 05 May 2022
 ICC-01/14-01/18-T-**126**-CONF-**ENG ET** 02-05-2022 1-85 SZ 19 May 2022
 ICC-01/14-01/18-T-**126**-CONF-**ENG CT** 02-05-2022 86 T 01 June 2023 (+ 13 mo.)
 ICC-01/14-01/18-T-**126**-CONF-**FRA CT** 02-05-2022 90 T 09 June 2023 (+ 13 mo.)
 ICC-01/14-01/18-T-**126**-CONF-**ENG CT2** 02-05-2022 86 T 20 July 2023 (+ 14 mo.)

T-173 regarding P-1839’s 1 November 2022 testimony, involving multiple CT versions:

ICC-01/14-01/18-T-**173**-CONF-**ENG ET** 01-11-2022 1-78 T 22 November 2022
 ICC-01/14-01/18-T-**173**-CONF-**FRA ET** 01-11-2022 1-85 T 13 December 2022 (+ 1 mo)
 ICC-01/14-01/18-T-**173**-CONF-**FRA CT** 01-11-2022 86 T 22 August 2023 (+ 9 mo)
 ICC-01/14-01/18-T-**173**-CONF-**ENG CT2** 01-11-2022 87 T 17 October 2024 (+ 11 mo)

T-122 regarding P-0888’s 12 April 2022 testimony, involving multiple CT versions:

ICC-01/14-01/18-T-**122**-CONF-**ENG ET** 12-04-2022 1-76 NB T 05 May 2022 (+ 1 mo)
 ICC-01/14-01/18-T-**122**-CONF-**FRA ET** 12-04-2022 1-79 NB 17 May 2022 (+ 1 mo)
 ICC-01/14-01/18-T-**122**-CONF-**FRA CT** 12-04-2022 1-79 T 03 April 2023 (+ 12 mo)
 ICC-01/14-01/18-T-**122**-CONF-**ENG CT** 12-04-2022 1-82 T 03 April 2023 (+ 12 mo)
 CC-01/14-01/18-T-**122**-CONF-**ENG CT2** 12-04-2022 83 T 15 October 2024 (+ 18 mo)

T-124 regarding P-1193’s 28 April 2022 testimony, involving multiple CT versions:

ICC-01/14-01/18-T-124-CONF-**FRA ET** 28-04-2022 1-85 SZ T 29 April 2022
 ICC-01/14-01/18-T-124-CONF-**ENG ET** 28-04-2022 1-82 NB T 13 May 2022
 ICC-01/14-01/18-T-124-CONF-**ENG CT** 28-04-2022 1-82 T 05 April 2023 (+ 12 mo)
 ICC-01/14-01/18-T-124-CONF-**FRA CT** 28-04-2022 1-87 T 05 April 2023 (+ 12 mo)
 ICC-01/14-01/18-T-124-CONF-**FRA CT2** 28-04-2022 1-87 T 26 May 2023 (+ 13 mo)
 ICC-01/14-01/18-T-124-CONF-**ENG CT2** 28-04-2022 1-83 T 26 May 2023 (+ 13 mo)
 ICC-01/14-01/18-T-124-CONF-**ENG CT3** 28-04-2022 83 T 09 June 2023 (+ 14 mo)

ICC-01/14-01/18-T-124-CONF-FRA CT3 28-04-2022 88 T 23 June 2023 (+ 14 mo)

As a result of these continuing issues throughout the proceedings, the Prosecution's workflow has been seriously disrupted. It has required that it review the same testimony as many as three times following the issuance of multiple versions of transcripts in both languages, including corrections which are notified without regularity. This comprises (a) the initial real-time transcript (RT) to which redactions and corrections are requested; then (b) the ET public version for lesser redactions and to determine whether the previously proposed corrections have been faithfully implemented; then (c) CT versions, notified sometimes more than a year later, to determine whether any additional corrections made to the transcripts create a new risk which undermine redactions still in place.

To this extent, the Prosecution recently met with CMS to determine an appropriate way forward and to examine retroactively the process followed, so as to adequately address the latter concern regarding public CT transcripts, particularly. While corrections and redactions to transcripts are normally distinct processes – here, to the extent that corrections applied to CT versions (often produced long after the ET versions) they may overlap, in that additional redactions may be required as a result of corrections made to non-redacted parts of public transcripts. Of course, the Prosecution recognises the initial 2-day period in which to review confidential CT versions of transcripts upon their notification. However, as foreshadowed in 2021, this has been nearly untenable in the circumstances given the inconsistencies in their production. As noted above, it has often been difficult to discern whether a CT version is actually final, or whether it may yet be followed by further CT versions warranting a de novo review.

Presently, the Prosecution is in the process of trying to ensure that as much of the transcripts of proceedings as possible is made publicly available, while reasonably safeguarding against the risk that inadvertences resulting from the way in which transcripts have been processed do not undermine the protections ordered by the Chamber, or the Court's duty under article 68.

The Prosecution very much appreciates the Chamber's understanding and patience. We believe that working together with CMS and the Parties and Participants, a reliable process can be arrived at and effectively implemented which allows for the definitive and safe public release of such transcripts promptly and on a rolling basis. Thank you.

Kind regards,

On behalf of OTP Trial Team

From: Trial Chamber V Communications [REDACTED]
Sent: 04 March 2025 10:56
To: OTP CAR IIB [REDACTED] Court Management-Court Records [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]; V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED]; V45 LRV Team [REDACTED]; Trial Chamber V Communications [REDACTED]
Subject: Decision on the Prosecution's request regarding removal from the website and restrict access to Court transcripts

[ICC] RESTRICTED

Dear Counsel, dear colleagues from the Registry,

The Single Judge notes the below request and authorises the Registry to temporarily remove the affected transcripts from the public domain.

However, he notes that these transcripts have been made available to the Prosecution on an ongoing basis since 2019 and recalls the parties' obligations to request redactions in a timely manner. Furthermore, he recalls that the Chamber previously held that any additional redactions to the *corrected* public version of a transcript would only be

considered on an exceptional basis and should be requested within two working days of notification of the confidential corrected version (see email from the Chamber, 15 July 2021, at 08:40 in the context of P-2841's testimony). In light of this, the Single Judge considers that the Prosecution should have brought this request at a much earlier stage.

Bearing in mind the Chamber's obligations under Article 68 of the Statute, the Single Judge affords the Prosecution another opportunity to assess the need for additional redactions to the corrected public version of the transcripts by **24 March 2025**, at the latest, and communicate these to the other participants on an ongoing basis until then.

The other participants may object to any additional redactions made by **4 April 2025**.

Kind regards, TC V

From: [REDACTED]
Sent: 04 March 2025 10:43
To: OTP CAR IIB [REDACTED] Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED]; D30 Ngaissona Defence Team [REDACTED]
 [REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED]
 [REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Subject: Re: Prosecution's request - Removal from the website and restrict access to Court transcripts

[ICC] RESTRICTED

[ICC] RESTRICTED

Dear Trial Chamber,

The Prosecution recently approached the Ngaissona Defence about this issue and provided some examples. The Defence lacks the time and resources to assess whether the request to restrict the public's access to all CT versions of the transcripts is too broad.

However, given the security interests at stake and fact that the Prosecution also includes Defence witness transcripts among those which may inadvertently include confidential information on the public website, the Defence does not oppose the Prosecution request. This is provided that a mechanism is adopted to ensure that the publicity of the proceedings will be restored in a predictable (even if incremental) manner.

Kind regards,

[REDACTED] on behalf of the Ngaissona Defence
 [REDACTED] on behalf of the Ngaissona Defence

From: OTP CAR IIB [REDACTED]
Sent: Monday, March 3, 2025 5:25 PM
To: Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team [REDACTED]
 [REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team [REDACTED]
 [REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED] OTP CAR IIB

Subject: RE: Prosecution's request - Removal from the website and restrict access to Court transcripts

[ICC] RESTRICTED

Dear Trial Chamber V,

The Prosecution understands that 'Corrected' ("CT") transcripts may have been published containing information that should be redacted. As such, we request that the Chamber authorise the Registry immediately to restrict public access to all CT transcripts until such time as the corrected text is reviewed to ensure that it does not undermine redactions ordered by the Chamber

The Parties and Participants requested in-Court Redactions ("ICRs") regarding Real-time transcripts ("RT") based on their known content at the time. Thereafter, proposed redactions were also similarly made regarding Edited transcripts ("ET"). However, CT versions of the transcripts (often published long afterwards) contain information additional to the prior versions. Notably, text that is corrected which does not fall within the specific page and lines for which redactions were granted was not assessed by the Registry before publication. So for instance, while ICRs may have been granted regarding a name or relation appearing at a given page and line of an ET transcript, a later CT version of that transcript may introduce information at another page or line adding exactly the same or similar information which did not appear in the earlier version and which fall within the scope of the type of ICR granted.

The Prosecution considers that, given this circumstance, it is prudent to restrict access to the CT versions of the transcripts pending an assessment of the corrected text, or alternatively, that the Chamber direct that all corrected information be redacted from these published transcripts retroactively and prospectively. Thank you.

Kind regards
On behalf of OTP Trial Team

From: OTP CAR IIB [REDACTED]
Sent: 03 March 2025 15:07
To: Trial Chamber V Communications [REDACTED]
Cc: D29 Yekatom Defence Team [REDACTED] D30 Ngaissona Defence Team
 [REDACTED] V44 LRV Team OPCV [REDACTED]; V44 LRV Team
 [REDACTED] V45 LRV Team [REDACTED]; Associate Legal Officer-Court Officer
 [REDACTED]; OTP CAR IIB [REDACTED]
 [REDACTED]

Subject: Prosecution's request - Removal from the website and restrict access to Court transcripts

Dear Trial Chamber V,

The attached corrected court transcripts may – through the corrections – include new passages that need to be redacted.

The Registry's Transcript team confirmed that they only implement redactions that were requested by the Parties and Participants either via In-Court Redaction Requests ("ICRs") or *post facto*, when requested later by the parties and participants – typically upon the review of the private sessions contained in the Confidential Transcripts.

We therefore request The Chamber to instruct The registry to temporarily remove them from the public website. The Prosecution will send shortly an email with further details on the issue. Thank you.

Best regards,

Ob behalf of OTP Trial Team

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