

ANNEX I

PUBLIC

[REDACTED]

From: Trial Chamber IX Communications
Sent: 01 June 2017 09:22
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Notice of Disclosure Application to be made tomorrow morning
Importance: High
Follow Up Flag: Follow up
Flag Status: Flagged

Dear parties,

With regard to Mr Gumpert's request below, and in the interest of facilitating an expeditious examination of P-24, the Chamber has decided that no further submissions are necessary in relation to applications a/05330/15 and a/05154/15. The Prosecution may disclose lesser redacted versions of these applications to the Defence.

An application of a more general nature can be made subsequently.

Kind regards,

[REDACTED]

On behalf of Trial Chamber IX

From: [REDACTED]
Sent: 31 May 2017 21:28
To: Trial Chamber IX Communications; [REDACTED]
Cc: [REDACTED]
Subject: Notice of Disclosure Application to be made tomorrow morning
Importance: High

I apologise for the lateness of this mail and for the somewhat unusual course of asking for a decision to be made immediately following submissions in the courtroom.

The Prosecution has been considering the issue of the disclosure of certain victims' applications in the light of the Appeal Chamber's decision ICC-02/11-01/15-915-Conf OA9, and the practices adopted in other ongoing trials.

Up until now the position in the *Ongwen* case has been that the Defence receive redacted versions of all victims' applications. The redaction regime in place was instituted through decision #205 which authorized 'very limited redactions' (para. 32-33) which include all identifying information of the applicants. Of course, for victims' applications made by dual status witnesses, on whom the Prosecution relies to prove its case ('trial witnesses'), the Defence receive lesser redacted versions which do include identifying information.

The Prosecution has noted that a number of the applications which the Defence has received with identifying information redacted relate to individuals who are close relatives of trial witnesses who give evidence about events at the four charged locations. These individuals were often at that same location at the time of the events about which evidence will be given, and make assertions about events at this time in their applications. The Defence are already in possession of this material. However, the Prosecution considers that the identities of these individuals and their relationship to the trial witnesses (hitherto redacted in accordance with decision #205) is material which ought, additionally, to be disclosed under rule 77, in the form of lesser redacted versions of these applications.

The Prosecution is currently conducting a review to establish how many such applications are in its possession and intends, in the course of next week, to make an application to the Chamber to vary the redaction regime established by decision #205 so as to permit disclosure of them as soon as possible.

The Prosecution has established that in respect of the next witness to be called, P-0024, there are two applications made by the witness's family members. The Prosecution believes that the Defence should be in possession of the lesser redacted versions before questioning of this witness begins. In order to avoid, or at least minimise, the inevitable delay which would be caused by the making of a formal written application in respect of these two documents, the Prosecution seeks the Court's permission to make a short oral application at the start of proceedings tomorrow.

The Prosecution is happy to report that with one exception, there are no victims' applications relevant to the witnesses who have already testified which would be made available to the Defence if the Chamber approves the proposals for disclosure of lesser redacted versions. This exceptional application relates to a close relative of witness P-0330. If the Chamber approves, this application will be disclosed to the Defence at the same time as those relating to P-0024. If the Defence considers that it would have conducted its questioning of P-0330 in a materially different way, and if the Chamber considers that it is necessary, the prosecution will make arrangements for the recall of this witness to enable further questions to be put.

Following this mail the Prosecution will send further mails, to the LRVs and the Chamber alone, attaching copies of the two applications relating to P-0024 and the one relating to P-0330 in their proposed lesser redacted form. These redaction are in accordance with the approach directed in the Chamber's email of 23 January 2017.

Regards
Ben Gumpert

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