

ANNEX 4

PUBLIC

From: Trial Chamber V Communications
Sent: 18 June 2021 18:14
To: Vanderpuye, Kweku; Trial Chamber V Communications; OTP CAR IIB Case Management; OTP CAR IIB Managers; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Associate Legal Officer-Court Officer; VWS Legal
Cc: Chamber Decisions Communication
Subject: RE: Publishing of prior recorded testimonies

Dear Counsel,

The publication of prior recorded testimonies introduced under Rule 68 of the Rules fulfils a crucial role in ensuring the publicity of the proceedings.

Nonetheless, the Chamber is mindful of the time and resource constraints associated with the implementation of the Chamber's direction. Accordingly, the Chamber hereby amends the imposed deadline of the calling participant to propose a redacted version of the written record of each prior recorded testimony to 35 days.

Kind regards, TC V

From: Vanderpuye, Kweku [REDACTED]
Sent: 03 June 2021 16:25
To: Trial Chamber V Communications [REDACTED] OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Managers [REDACTED] 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] VWS Legal [REDACTED]
Cc: Chamber Decisions Communication [REDACTED]
Subject: RE: Publishing of prior recorded testimonies
Importance: High

Dear Trial Chamber V,

Dear All,

The Prosecution respectfully requests to be heard in relation to the directive below.

In addition to the deadlines concerning PRVs of filings, transcript reviews, revisions, and corrections, as well as various other administrative practice requirements and deadlines – which are quite substantial and burdensome in practice – the imposition of PRVs for Witness Statements will greatly exceed the limited resources at the disposal of the Office of the Prosecutor.

The practice of publishing redacted Witness Statements is largely without precedent (including at the *ad hoc* Tribunals, or other similar courts to any degree) in view of the attendant burdens to the Parties and Participants, which must be balanced against countervailing interests in the efficiency of the proceedings and judicial economy. Although a similar practice has been recently implemented in another case, I am given to understand that that is the only instance in which such a directive has been imposed. In any event, given the anticipated volume of such material in this particular case, the attendant burdens and balance are not comparable.

The Prosecution is disposed to address the matter more in depth at the Court's convenience. But, we do consider its potential impact serious enough for the Chamber to afford the Parties and Participants a reasonable opportunity to be heard. Thank you.

Kind regards,

Kweku Vanderpuye

From: Trial Chamber V Communications [REDACTED]
Sent: 03 June 2021 15:58
To: OTP CAR IIB Case Management [REDACTED]; OTP CAR IIB Managers [REDACTED]; 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]; VWS Legal [REDACTED]
Cc: Trial Chamber V Communications [REDACTED]; Chamber Decisions Communication [REDACTED]
Subject: Publishing of prior recorded testimonies

Dear all,

As previously indicated, the evidence presentation shall be held in public to the extent possible (*see* Initial Directions, ICC-01/14-01/18-631, para. 45). The Chamber considers that the same principle applies to testimony which was previously obtained and introduced under Rule 68 of the Rules.

Accordingly, the Chamber instructs the calling participant to propose a redacted version of the written record of each prior recorded testimony, or indicate that it may be made public in its entirety, within 21 days of fulfilling the requirements under Rule 68 of the Rules (*see similar* for Rule 68(2)(b) of the Rules, Trial Chamber IX, *The Prosecutor v. Dominic Ongwen*, 18 November 2016, ICC-02/04-01/15-596-Red, para. 223). The calling participant is instructed to liaise with the Victims and Witnesses Unit in this regard.

Within 21 days of receipt, the other participants may raise any objections to the proposed redactions and/or propose additional redactions. Should no objections be made, the calling participant shall make the public redacted versions available in E-court and the Registry shall publish them on the Court's website with their assigned ERN. The Chamber clarifies that there is no need to assign new ERNs merely for the purpose of publication on the website.

Kind regards, TC V