

ANNEX 16

PUBLIC

From: Trial Chamber V Communications
Sent: 15 July 2021 08:40
To: [REDACTED]
Cc: Court Management-Transcripts; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; OTP CAR IIB Case Management; OTP CAR IIB Operations; Associate Legal Officer-Court Officer; [REDACTED] Chamber Decisions Communication; Trial Chamber V Communications
Subject: RE: Proposed Redactions to P-2841's transcripts
Attachments: Proposed Redactions to P-2841's transcripts; RE: Proposed Redactions to P-2841's transcripts

Dear counsel,

The Single Judge takes note of the Prosecution's proposal for lesser redacted versions of transcripts T-029 and T-030 dated 7 and 10 May 2021, respectively, and of its request to 'submit additional redactions to the corrected public version of these transcripts, once they have been made available by the Registry, and before they are released to the public' (see attached email from the Prosecution, 2 June 2021, at 17:22); the Ngaissona Defence's objections to the proposed lesser redacted version of T-029 (see attached email from the Ngaissona Defence, 11 June 2021, at 15:08); and the Prosecution's response thereto (see below email from the Prosecution, 14 June 2021, at 18:07).

In accordance with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631, the Single Judge assessed the contested redactions to the proposed public lesser redacted version of T-029, detailed in the Prosecution's response (the 'Contested Redactions'). The Single Judge considers that, in order to protect the identity of P-2841, it is necessary to maintain redactions to information concerning (i) the witness's sources or the content of specific information exchanged with them, and (ii) the witness's involvement in or knowledge of specific Anti-Balaka events or activities, to the extent that such information poses a risk of identification of the witness by his sources or the public.

Specifically, the Single Judge grants the Prosecution's request to maintain the Contested Redactions in full, with the following exceptions:

- (i) p. 12, lines 11-12 (where only [REDACTED] should be kept redacted);
- (ii) p. 13, lines 2-7 (where only [REDACTED] should be kept redacted);
- (iii) p. 20, lines 3-6 (where only [REDACTED] should be kept redacted), 12-14, 21 (where only [REDACTED] should be kept redacted) - 22;
- (iv) p. 40, lines 13-15;
- (v) p. 41, lines 19-20 (where only [REDACTED] should be kept redacted);
- (vi) p. 47, lines 12-13 (where only '[REDACTED]' and [REDACTED] should be kept redacted);
- (vii) p. 53, lines 8-13 (where only [REDACTED] should be kept redacted), 20, 22 (where only [REDACTED] should be kept redacted) -23; and
- (viii) p. 55, lines 13-15.

With regard to both T-029 and T-030, the Registry is directed to proceed in accordance with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631.

With regard to the Prosecution's request to 'submit additional redactions to the corrected public version of the transcripts' before they are released to the public, the Single Judge decides that, on an exceptional basis, if strictly necessary, the Prosecution may submit such request within two working days of notification of the confidential corrected version of P-2841's transcripts.

The Prosecution is directed to copy the Court Officer and the participants in such request, who may object within 2 working hours. In the absence of any objection, the redaction is presumed to have been approved and can be applied by the Registry. The Registry may then proceed with publishing the corrected public redacted transcript. In case of disagreement, the Presiding Judge will rule on the request for additional redactions.

Kind regards, TC V

From: [REDACTED]
Sent: 14 June 2021 18:07
To: Trial Chamber V Communications [REDACTED]
Cc: Court Management-Transcripts [REDACTED] 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 Case Management
 [REDACTED] OTP CAR IIB Operations [REDACTED] Associate
 Legal Officer-Court Officer [REDACTED] Ameerali, Carline
 [REDACTED]
Subject: RE: Proposed Redactions to P-2841's transcripts

Dear Trial Chamber V,

The Prosecution has carefully assessed the Ngaissona Defence's proposals regarding the redaction of P-2841's transcribed testimony.

On further consideration, the Prosecution accepts the Defence's proposals at pages 7, 8, 17, 18, 19, 24, 25, 26, 28, 30, 31, 38, 48, 50, 52, and 76.

However, it maintains the necessity for redactions in the following portions, for the reasons set out below:

- P.12, l.9-13, and from p.12, l.24 to p.13, l.19: the information pertaining to the details and circumstances of the relationship between P-2841 and [REDACTED] should be redacted from the public in order to prevent any risk of identification of the witness by [REDACTED], or by people aware of their proximity and collaboration in that period (such as [REDACTED]). An informed person could understand that P-2841 is referring here to [REDACTED], despite the redaction of his name.
- P.15, l.4-18: this information should be redacted in order to prevent a risk of identification of the witness by [REDACTED] himself. (The reference, unredacted in the same transcript, of Facebook communications could lead [REDACTED] to conclude that the witness is referring to him. P-2841's identification would be facilitated notably by the unredacted mention that the witness was living in BANGUI at the time (see ICC-01/14-01/18-T-029-CONF-ENG ET, p.9, l.3-5)).
- P.20, l.3 to p.22, l.10: this information should be redacted as it would enable the identification of the witness by [REDACTED], or by individuals aware of their cooperation at the time (such as [REDACTED]). The fact that the witness was [REDACTED] is identifying.
- P.29, l.1-13, p.37, l.11-23: this information should be redacted to prevent a risk of identification of the witness by [REDACTED], or by individuals aware of their proximity and collaboration in that period.

An informed person would understand that P-2841 is referring here to [REDACTED] despite the redaction of his name.

- P.39, l.7-19, p.40, l.5-15, p.41, l.1-3: this information should be redacted as it could enable the identification of the witness by [REDACTED] and [REDACTED] (they could reach that conclusion despite the redaction of their name in the transcript from the nature of the information discussed by the witness [REDACTED] and the fact that P-2841 discussed it through Facebook). As mentioned above, the unredacted mention in the transcript that the witness was living in BANGUI at the time could facilitate further his identification).
- P.41, l.5: the name [REDACTED] should be redacted to avoid a risk of identification of the witness by [REDACTED] or by individuals aware of their contacts. The Prosecution understands that the non-acceptance of this redaction by the Defence is an oversight, given that it accepted the redaction of his identity in the remaining of the transcript.
- P.41, l.13 to p.42, l.2: the Prosecution agrees with the Defence's proposals but considers that [REDACTED] (p.41, line 19) should be redacted, in order to prevent a risk of identification of the witness by [REDACTED] or [REDACTED] (P-2841 discussed specifically with them the issue mentioned in this portion of the transcript (i.e. the non-provision of funding to [REDACTED] which was supposed to transit through ZONGO)).
- P.42, l.4-25: this information should be redacted in order to prevent a risk of identification of the witness notably by [REDACTED] also mentioned, is deceased according to the witness (see P-2841's statement, CAR-OTP-2127-4238, at 4249, para.62)) (in particular mention that P-2841's sources of information regarding the fact that [REDACTED] were [REDACTED], that they were close to him, and obtained that information from ZONGO). [REDACTED] identification of the witness would be facilitated by the mention, unredacted in the transcript, that P-2841 was living in BANGUI at the time (see ICC-01/14-01/18-T-029-CONF-ENG ET, p.9, l.3-5).
- P.45, l.21 to p.46, l.13, p.47, l.12-23, p.51, l.7-13, p.53, l.8-23, p.54, l.16 to p.55, l.4: this information should be redacted in order to prevent a risk of identification of the witness by [REDACTED] and [REDACTED] (the information which the Defence proposes to leave unredacted could notably lead [REDACTED] to understand that the witness discusses his email to NGAISSONA).
- P.55, l.9-15: this information should be redacted to avoid a risk of identification of P-2841 by [REDACTED] [REDACTED] could identify P-2841 from the subject matter of the Facebook conversation which is discussed in this portion of the transcript).
- P.56, l.15-19: this information should be redacted to avoid a risk of identification of P-2841 by [REDACTED] [REDACTED]
- P.80, l.23: this information should be redacted to avoid a risk of identification of the witness by [REDACTED] [REDACTED]

Kind regards,

[REDACTED]
OTP Case Manager

From: [REDACTED]

Sent: vendredi 11 juin 2021 15:08

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

Cc: Court Management-Transcripts [REDACTED] 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 Case Management
 [REDACTED] OTP CAR IIB Operations [REDACTED] Associate
 Legal Officer-Court Officer [REDACTED]
 [REDACTED]
 [REDACTED]

Subject: RE: Proposed Redactions to P-2841's transcripts

Dear Trial Chamber V,

The Defence respectfully submits that the redactions to P-2841's testimony proposed by the Prosecution appear excessive, as they go well beyond the redaction of potentially identifying information. The Defence submits that the redaction of information on: (i) the witness' personal and professional life; (ii) his sources and interlocutors during the crisis; and (iii) the content and date of his communications would be sufficient to ensure that the witness' identity is not revealed to the public, while at the same time preserving as much as possible the publicity of these proceedings.

The Defence hereby attaches a new version of the CONF ET ENG transcript of 7 May 2021 received by the Prosecution, with its suggested redactions (marked for redaction in red). The Defence will not make any proposals as it concerns the transcript of 10 May 2021, as the redactions applied to its cross-examination are minimal.

Respectfully yours,

[REDACTED]

[REDACTED] *Ngaissona Defence*

From: [REDACTED]

Sent: 02 June 2021 17:22

To: Trial Chamber V Communications

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

Subject: Proposed Redactions to P-2841's transcripts

Dear Trial Chamber V,

Dear All,

Please find attached the CONF ET transcripts of 7 and 10 May 2021, in both English and French. The red highlights indicate the discrete parts of P-2841's testimony that should remain redacted in the public versions. All other parts – including those previously held in private session – can be published in the public version without redaction.

The Prosecution additionally informs the Chamber that it has requested the Court Management Section to make several corrections to transcripts ICC-01/14-01/18-T-029-CONF-ENG ET and ICC-01/14-01/18-T-030-CONF-ENG ET, which will, if granted, require additional redactions to the public version.

Accordingly, the Prosecution requests the authorization to submit additional redactions to the corrected public version of these transcripts, once they have been made available by the Registry, and before they are released to the public.

Kind regards,

[REDACTED]

OTP Case Manager

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