

ANNEX 29

PUBLIC

From: Trial Chamber V Communications
Sent: 24 August 2021 09:18
To: [REDACTED] D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Trial Chamber V Communications; Associate Legal Officer-Court Officer; [REDACTED] Chamber Decisions Communication
Cc: OTP CAR IIB Operations; OTP CAR IIB Case Management; [REDACTED]
Subject: RE: OTP redactions to transcripts P-2673
Attachments: OTP redactions to transcripts P-2673; RE: OTP redactions to transcripts P-2673

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Yekatom and Ngaissona

Dear counsel,

The Single Judge takes note of the Prosecution's proposal for a public lesser redacted version of the French transcript T-041, dated 3 June 2021 (edited version notified on 22 July 2021) (see attached email from the Prosecution, 22 July 2021, at 15:50); and of the Yekatom Defence's objections to some of the redactions which the Prosecutions proposes maintaining in the public lesser redacted version of T-041 (the 'Contested Redactions') (see below email from the Yekatom Defence, 26 July 2021, at 15:28).

Having assessed the Contested Redactions in line with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631, the Single Judge considers that, in order to protect P-2673's identity, it is necessary to maintain redactions to information concerning, *inter alia*, [REDACTED]. Conversely, the Single Judge considers that maintaining redactions to information concerning, *inter alia*, the existence of Facebook conversations and the witness's general knowledge about specific individuals and their positions is not justified.

Specifically, the Single Judge considers that the Contested Redactions should be lifted in full, with the exception in [REDACTED]

Accordingly, the Registry is directed to proceed in accordance with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631 for the French and the English versions of transcript T-041.

Furthermore, the Single Judge takes note of the Prosecution's 'proposed additional redactions for which [it] requests the Chamber's authorisation' for the public lesser redacted versions of the English version of transcript T-041 and of the English and French versions of transcript T-042 (the 'Request') (see attached email from the Prosecution, 25 June 2021, at 13:49).

The Single Judge recalls that, pursuant to the Presiding Judge's direction of 7 July 2021, at 17:05, additional redactions to a transcript can be exceptionally requested, in the event of 'an oversight in terms of redactions in the edited transcript, which puts a witness at risk', promptly and 'in any case before the Registry's deadline to publish the redacted version expires' (the '7 July 2021 Direction'). Accordingly, the Single Judge clarifies that the Registry should not implement additional redactions requested at a later stage, even in the absence of objections.

Nonetheless, mindful that the 7 July 2021 Direction was issued only after the Request was received, and taking into account the risk of identification of the witness and the absence of any objections thereto, the Single Judge exceptionally considers the Request.

In particular, the Single Judge considers that, in order to protect P-2673's identity and in line with redactions already applied to the public versions of the transcripts, it is necessary to redact information concerning, *inter alia*, the

witness's sources or specific personal circumstances concerning the witness. Accordingly, the Single Judge grants the Request with the following exceptions, for which the additional redactions are rejected:

- (i)
- (ii)
- (iii)

Furthermore, in line with the additional redactions granted in the English version of T-042, the Single Judge considers that the following information should also be redacted in the French version of the transcript: [REDACTED], respectively.

Accordingly, the Registry is directed to apply the additional redactions granted.

Kind regards, TC V

From: [REDACTED]

Sent: 26 July 2021 15:28

To: [REDACTED] 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] Associate Legal Officer-Court Officer [REDACTED]
 [REDACTED]

Cc: OTP CAR IIB Operations [REDACTED]; OTP CAR IIB Case Management
 [REDACTED]

Subject: RE: OTP redactions to transcripts P-2673

Dear Trial Chamber V,
 Dear all,

The Yekatom Defence respectfully submits that the proposed redactions for lesser redacted versions of P-2673 testimony transcripts (T-041 and T-042) go beyond the protection of the witness identity and should be strictly limited to potential identifying information to preserve the publicity of these proceedings.

The Yekatom Defence does not oppose redactions on the witness's personal and professional life; his geolocalisation; his personal involvement in 2013 and 2014; and on his sources of information as such information could constitute a risk of identification of the witness.

However, redaction regarding the existence of Facebook communications between individuals does not seem justified to protect P-2673's identity. The mere reference to these communications does not prejudice future investigations by the Prosecution as it is public knowledge that Facebook conversations can be retrieved and used in criminal proceedings (*On the public knowledge of the use of Facebook communications by the Prosecution, see the public redacted version of the Prosecution Pre-Trial Brief [ICC-01/14-01/18-723-Red](#), paras. 71, 281*).

Similarly, general information given by P-2673 on other individuals without any specificity should not be redacted as they do not provide sufficient information to constitute a potential risk of identification of the witness's identity.

For these reasons, the Yekatom Defence submits that the following extracts should not be redacted:

[REDACTED]

[REDACTED]

Kind regards,

[REDACTED]
Legal Assistant, Yekatom Defence

From: [REDACTED]
Sent: 22 July 2021 15:50
To: 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] Associate Legal Officer-Court Officer [REDACTED]
Cc: OTP CAR IIB Operations [REDACTED] OTP CAR IIB Case Management
 [REDACTED]
Subject: RE: OTP redactions to transcripts P-2673

Dear Trial Chamber,
Dear All,

Please find attached the outstanding Confidential French transcript of P-2673's testimony (ICC-01-14-01/18-T-041-Conf-Fra ET). This confidential version indicates redactions to remain in place in the Private Sessions (only), so that these lesser redacted portions can be made public. The Prosecution has not highlighted the redactions already authorised, or pending authorisation (as requested in an e-mail sent by the Prosecution on 25 June 2021 at 13:49), in the public sessions of this transcript. We understand that the Registry will implement such redactions to these transcripts before publishing them.

Kind regards,

[REDACTED]
OTP Case Manager

From: [REDACTED]
Sent: 25 June 2021 13:49
To: D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44 LRV Team OPCV; V44 LRV Team; V45 LRV Team; Trial Chamber V Communications; Associate Legal Officer-Court Officer; [REDACTED]
Cc: OTP CAR IIB Operations; OTP CAR IIB Case Management; [REDACTED]
Subject: OTP redactions to transcripts P-2673

Dear Trial Chamber,
Dear All,

In respect of P-2673's testimony transcripts (T-041 and T-042), please find attached:

- The public versions with proposed additional redactions for which the Prosecution requests the Chamber's authorisation. The additional redactions are necessary to ensure that the witness is not identifiable to the public. Extenuating circumstances concerning [REDACTED] further justify this request, and will be communicated to the Chamber ex parte. In this respect, the Prosecution also requests that the transcripts concerned are promptly taken off the ICC website until the Chamber has determined the matter.
- The confidential versions indicating redactions to remain in place in the Private Sessions (only), so that these lesser redacted portions can be made public. The Prosecution has not highlighted the

redactions already authorised in the public sessions of these transcripts. We understanding that the Registry will implement such redactions to these transcripts before publishing them.

In more general terms, the Prosecution considers and requests that any prepared public redacted versions of the trial transcripts should not be published on the ICC website until they have been vetted by the calling Party.

Thank you.

Kind regards,



OTP Case Manager

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