

ANNEX 12

PUBLIC

From: Trial Chamber V Communications
Sent: 25 November 2021 15:22
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; [REDACTED] Associate Legal Officer-Court Officer; Chamber Decisions Communication; Trial Chamber V Communications
Subject: RE: Proposed Redactions to P-0291's transcripts
Attachments: Proposed Redactions to P-0291's transcripts

Dear Counsel, dear colleagues from the Registry,

The Single Judge takes note of the Prosecution's proposal for a lesser redacted version of transcript T-051 (*see* attached email from the Prosecution, 10 September 2021, at 16:06); the Yekatom Defence's objections to the redactions which the Prosecution proposes maintaining therein (the 'Contested Redactions') (*see* below email from the Yekatom Defence, 15 September 2021, at 14:30); and the Prosecution's response thereto (*see* below email from the Prosecution, 15 September 2021, at 16:20).

The Single Judge notes at the outset that the requested redactions concern only the first part of the hearing, which was held in private session to address P-0291's security concerns and request to testify in closed session. In this regard, the Single Judge recalls that the Prosecution did not request in-court protective measures for P-0291, and that the VWU indicated in its assessment prior to the witness's testimony that it 'could not establish any specific security-related concerns linked to the witness profile or his cooperation with the ICC based on available information' and thus considered that there was 'no need to adopt in-court protective measures' (email from the VWU, 7 July 2021, at 17:16). The Single Judge also notes that the Chamber did not consider it necessary to hear the witness's whole testimony in private session based on, *inter alia*, the VWU's assessment, and further notes that the witness thereafter agreed to testify in open session.

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 maintaining redactions to (i) general information concerning P-0291's concerns for his security situation, and (ii) the Presiding Judge's remarks related to the publicity of the proceedings and the Chamber's decision not to hear the witness's entire testimony in private session, are not justified. In particular, the Single Judge considers the remarks regarding the publicity of the proceedings and the possibility to use private and/or closed session when special circumstances are warranted, to be of particular interest to the public.

However, the Single Judge considers that it is necessary to maintain redactions to information concerning (i) the specific security concerns explained by the witness, and (ii) the Presiding Judge's remark regarding specific security measures implemented for the witness due to his position as former Prime Minister of the Central African Republic. Accordingly, the Single Judge rejects the Prosecution's request to maintain the Contested Redactions, with the exception of the information in p. 4, line 21 to p. 5, line 3, and p. 5, lines 13 to 14 (only until [REDACTED] of the English version of T-051, which should be kept redacted in the public lesser redacted version of the transcript).

The Registry is directed to proceed in accordance with paragraph 72 of the Initial Directions, ICC-01/14-01/18-631, for the English and French public lesser redacted versions of T-051.

Kind regards, TC V

From: [REDACTED]
Sent: 15 September 2021 16:20
To: [REDACTED] Trial Chamber V Communications

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]
 [REDACTED]

Subject: RE: Proposed Redactions to P-0291's transcripts

Dear Trial Chamber V,

Dear all,

The Prosecution maintains its proposed redactions to P-0291's transcripts T-051-CONF-ENG ET and T-051-CONF-FRA ET, including to the Presiding Judge's commentary about P-0291's security concerns which was done in private session. *First*, the publicity of the security concerns expressed by P-0291 could [REDACTED] [REDACTED] and therefore increase the security risks for the witness, which are tangible. *Second*, the fact that P-0291 expressed security concerns is of no interest to the public, even more so because it has no bearing on the substance of his testimony.

Kind regards,
 On behalf of OTP Trial Team

From: [REDACTED]
Sent: mercredi 15 septembre 2021 14:30
To: [REDACTED]; Trial Chamber V Communications [REDACTED]
 [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-0291's transcripts

Dear Trial Chamber V,
 Dear all,

The Yekatom Defence (the "Defence") respectfully objects to the Prosecution's suggested redactions to P-0291's transcripts. The Defence contends that redactions might only warranted for the first intervention of the witness, page 4 lines 9 to 15 in the French transcript and pages 4-5 lines 21-3 in the English transcript.

First, the contested redactions are only related to remarks about the concern of the witness about testifying publicly, it is the Defence position that the basis of those redactions is moot as the witness decided to testify publicly.

Second, the contested redactions consist almost entirely of the Presiding Judge words recalling the importance of public proceedings and the possibility to go in private session on specific matters if the need arises. The Defence is of the view that those words echo the final public remark of the Presiding Judge to the effect that *"On behalf of the Chamber, I would like to thank you for giving testimony before this court. By testifying and doing so in public you, as a highest ranking politician of your country, have taken responsibility and have helped -- have helped the Court to establish the truth about the events of the past for the benefit of the people in the CAR. Thank you very much again*

on behalf of the Chamber and we wish you a safe trip back home." (see T-053-ENG ET, page 36, lines 11-16). The Defence contends that the public ought to know and acknowledge the courage of the witness who, despite some concerns, decided to testify publicly.

Third, the remaining contested redactions are of general nature, the only specific information provided is related to the provision to P-0291 of [REDACTED] (T-051-CONF-ENG, page 5, lines 13-14). The Defence contends that this information is not sensitive in light of the public testimony of P-0291, a former Prime Minister of the Central African Republic who benefits from a heightened personal security measure due to his position.

In light of the above, the Defence leaves it at the discretion of the Chamber as to whether or not the first intervention of the witness (T-051-CONF-FRA page 4 lines 9-15 & T-051-CONF-ENG pages 4-5 lines 21-3) is warranted and; respectfully request the Chamber to deny the remainder of the Prosecution's redaction request.

Kind regards,

[REDACTED]

From: [REDACTED]
Sent: 10 September 2021 16:06
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-0291's transcripts

Dear Trial Chamber V,
 Dear All,

Please find attached the CONF ET transcript of 12 July 2021, in both English and French. The red highlights indicate the discrete parts of P-0291'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.

Kind regards,

On behalf of OTP Trial Team

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[REDACTED]

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Sent: 10 September 2021 16:06
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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-0291's transcripts
Attachments: CR2021 07354 ICC-01 14-01 18-T-051-CONF-FRA ET 12-07-2021 1-79 NB T.pdf; CR2021 06582 ICC-01 14-01 18-T-051-CONF-ENG ET 12-07-2021 1-77 NB T.pdf

Dear Trial Chamber V,
Dear All,

Please find attached the CONF ET transcript of 12 July 2021, in both English and French. The red highlights indicate the discrete parts of P-0291'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.

Kind regards,
On behalf of OTP Trial Team