

ANNEX 17

PUBLIC

From: Trial Chamber V Communications
Sent: 01 December 2021 18:26
To: [REDACTED]
Cc: Court Management-Transcripts; D29 Yekatom Defence Team; D30 Ngaïssona 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: OTP lesser redacted versions of transcripts of P-0306
Attachments: OTP List of the documents to be submitted through P-0306; Ngaïssona Defence submission of evidence through P-0306; T-065-CONF-ENG - Contested Redactions highlighted in yellow.pdf

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-065 (see attached email from the Prosecution, 12 November 2021, at 11:39), and the Ngaïssona Defence's objections to some of the redactions which the Prosecution proposes to maintain (highlighted in yellow) (the 'Contested Redactions') (see attached email from the Ngaïssona Defence, 25 November 2021, at 18:50).

At the outset, the Single Judge notes that P-0306's testimony was conducted mostly in private session due to the witness's high risk profile and vulnerability. He further notes in this regard the remarks made by the Presiding Judge during the hearing (see *e.g.* T-064-CONF-ENG, p. 76, line 14 to p. 77 line 24; see also Decision on the Prosecution Request pursuant to Rule 81(4) for the Delayed Disclosure of the Identity and Materials related to Witness P-0306, 13 November 2020, ICC-01/14-01/18-728-Conf-Red, para. 14).

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 it is not justified to maintain redactions to, *inter alia*, (i) P-0306's general knowledge of and familiarity with certain individuals; (ii) general information concerning the 5 December 2013 attack on Bangui (such as the fact that the order to attack came from Mr Ngaïssona) and the witness's involvement in the attack; and (iii) the witness's opinion on the control that Mr Ngaïssona had over the Anti-Balaka and the situation of some of the elements after the 5 December 2013 attack on Bangui.

On the contrary, the Single Judge considers that, in light of the witness's specific circumstances, it is necessary to maintain redactions to, *inter alia*, (i) information concerning his interactions with certain Anti-Balaka members and [REDACTED] (ii) references to the witness's [REDACTED] (iii) the witness's sources of information; and (iv) the content of [REDACTED]. Accordingly, the Single Judge considers that the Contested Redactions should be maintained, with the exception of the below redactions to the English version of T-065, which can be lifted:

- (i) p. 10, lines 12 to 19 (until '[...] in Bangui.'), lines 20 (from 'It was at that moment [...]' to 21 (until 'That's it.'));
- (ii) p. 13, lines 4 to 7 (until '[...] in Bangui town.'), 9 to 12, 14, 25;
- (iii) p. 14, lines 1 to 3 (until 'date.'), 5 (from '[...] that order') to 14, 16 (from 'the order came from [...]' to 19 (until '[...] called.'), 20 (from 'we were told [...]' to 25;
- (iv) p. 15, lines 1 to 6 (until 'Mr Ngaïssona called');
- (v) p. 16, lines 23 (from 'But our authority, [...]' to 24 (until '[...] for the work.'));
- (vi) p. 17, lines 1 to 4, 23 to 25;
- (vii) p. 18, lines 1 to 4 (until '[...] and attack.'), 5 (from 'There was and order [...]' to 6;
- (viii) p. 45, lines 22 (from 'You see, [...]' to 25;
- (ix) p. 46, lines 1 to 2 (until '[...] of suffering.'); and

(x) p. 54, lines 20 to 25.

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-065.

Kind regards, TC V

From: [REDACTED]
Sent: 25 November 2021 18:50
To: [REDACTED]; Trial Chamber V Communications [REDACTED]
Cc: Court Management-Transcripts [REDACTED] D29 Yekatom Defence Team
 [REDACTED]; D30 Ngaïssona 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]
Subject: RE: OTP lesser redacted versions of transcripts of P-0306

Dear all,

The Ngaïssona Defence respectfully submits that some of the remaining redactions proposed by the Prosecution for the lesser redacted version of transcript T-065 of witness P-0306 go beyond what is necessary for the protection of the witness' identity.

Accordingly, the Ngaïssona Defence identified parts of the transcript that are of too general nature to pose a risk of identification and that should not be redacted. Attached the English version of the transcript identifying the contested redactions in yellow. The lifting of the redaction should be equally applied to the French transcript.

- Page 10 : the evocation of [REDACTED];
- Pages 13-18 : the mention that the witness participated in the Bangui attack ;
- Pages 22-23 : [REDACTED];
- Pages 44-46 : the evocation of [REDACTED];
- Page 54 : the opinion of the witness on the effective control of Mr Ngaïssona over the AB.

The Defence notes that despite the Prosecution's proposition for a lesser redacted version, P-0306's statement remains heavily redacted. Making this information available to the public is in accordance with Mr Ngaïssona's right to a public hearing while at the same time protecting the witness' identity.

Kind regards,

From: [REDACTED]
Sent: 12 November 2021 11:39
To: Trial Chamber V Communications [REDACTED]
Cc: Court Management-Transcripts [REDACTED]; D29 Yekatom Defence Team
 [REDACTED] D30 Ngaïssona 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]

Subject: OTP lesser redacted versions of transcripts of P-0306

Dear Trial Chamber,
Dear All,

In respect of P-0306's lesser public redacted testimony transcripts, please find attached:

- The confidential version of transcript ICC-01/14-01/18-T-065-CONF (both English and French versions) indicating with green highlights limited portions of P-0306's testimony that can be made public, in the Prosecution's assessment. Due to P-0306's unique security situation, and the fact that his testimony took place largely in private session, the Prosecution opted to highlight limited portions of the attached transcript that can be made public without creating an increased risk to the witness's security (as opposed to the usual practice of highlighting portions of the transcripts that should remain redacted in red).

Kind regards,

On behalf of OTP Trial Team

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