

ANNEX 22

Public Redacted

From: Trial Chamber VI Communications
Sent: 23 February 2024 12:38
To: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV
Cc: Trial Chamber VI Communications; Chamber Decisions Communication; Associate Legal Officer-Court Officer
Subject: RE: Prosecution request- witness preparation video of P-1289

[ICC] RESTRICTED

Dear Parties and participants,

The Chamber has taken note of the Prosecution's request and the CLRV's response. Furthermore, the Chamber notes that the Defence did not respond to the request.

The Chamber finds that the relief sought by the Prosecution in its request is largely unnecessary given existing confidentiality obligations on the parties and participants. In this regard, although the Prosecution has made reference to the Unified Technical protocol for the provision of evidence, witness and victims information in electronic form ('eCourt Protocol'), which was adopted by the Pre-Trial Chamber in the present case, the Prosecution appears to have not taken into account the Protocol on the Handling of Confidential Information during Investigations and Contact between a party or participants and witnesses of the opposing party or a participant ('Protocol on the Handling of Confidential Information During Investigations'), which was similarly adopted by the Pre-Trial Chamber in ICC-01/14-01/21-50. The Chamber takes note of paragraphs 6-8 of the Protocol on the Handling of Confidential Information During Investigations which sets out a general obligation not to disclose to third parties any confidential document or information. Similarly, the Chamber can see no reason why disclosure of P-1289's witness preparation video is necessary for the preparation of the presentation of the Defence's or the CLRV's cases. Indeed neither the Defence nor the CLRV have advanced such a reason and, in any event, the CLRV has noted that her team member in the field has no access to such information.

Accordingly, in the present circumstances, the Chamber sees no need for it to grant the relief sought by the Prosecution and therefore the request is rejected. That notwithstanding, the Chamber draws the parties and participants' attention to the aforementioned provisions and the confidentiality obligations therein.

Kind regards,
Trial Chamber VI

From: Pellet, Sarah <[REDACTED]>
Sent: Thursday, February 8, 2024 1:36 PM
To: Trial Chamber VI Legal Team <[REDACTED]>; Trial Chamber VI Communications <[REDACTED]>
Cc: D33 Said Defence Team <[REDACTED]> Said LRV Team OPCV <[REDACTED]>; Makwaia, Holo <[REDACTED]>
Subject: RE: Prosecution request- witness preparation video of P-1289

[ICC] RESTRICTED

Dear Trial Chamber VI,

The Common Legal Representative of Victims does not oppose the below request from the Prosecution.

In any case, she recalls that her team member in the field, Maître Dibert-Bekoy, has no access to any evidence nor any confidential information, other than the victims' participation forms and the fact that some of them have testified or are expected to testify during the trial (see the "Confidential redacted version of 'Common Legal Representative of Victims' response to the Defence's request to lift redactions concerning P-2400 (a/70304/22)", submitted on 28

October 2022, ICC-01/14-01/21-518-Conf-Exp”, [No. ICC-01/14-01/21-518-Conf-Red](#), 28 October 2022, para. 37). Accordingly, he does not have access to the witness preparation video of P-1289.

Kind regards,
Sarah Pellet

De : Makwaia, Holo [REDACTED]
Envoyé : jeudi 8 février 2024 12:45
À : Trial Chamber VI Communications [REDACTED]; D33 Said Defence Team
<[REDACTED]>; Said LRV Team OPCV [REDACTED]>
Cc : Trial Chamber VI Legal Team [REDACTED]>
Objet : Prosecution request- witness preparation video of P-1289

[ICC] RESTRICTED

Dear Trial Chamber VI,

The Prosecution respectfully requests an order for non-dissemination of the witness preparation video of P-1289 by the Defence and Participants because the identities of field staff in the Office of the Prosecutor is disclosed.

In implementation of the Chamber’s order of 31 January 2024, the Prosecution disclosed to the Chamber, Parties and Participants, courtesy copies of the video recordings of the preparation session of P-1289, conducted on 24 January 2024, formal disclosure was effected in Trial Rule 77 package 095.

Given the urgency of the disclosure of the video recordings, the Prosecution was not able to implement any redactions with respect to the identities of the field interpreter and psychosocial expert who were in attendance, in compliance with the 7 April 2021 Order on disclosure and related matters (ICC-01/14-01/21-50-Conf) which adopted in the SAID case, the *Yekatom* and *Ngaissona* Unified Technical protocol for the provision of evidence, witness and victims information in electronic form ("E-Court Protocol"), ICC-01/14-01/18-64-Anx; ICC-01/14-01/18-64-Conf, para. 25.

The aforementioned E-Court Protocol at paragraph 25 authorises the Prosecution, pursuant to rule 81(2) of the Rules of Procedure and Evidence, to withhold information falling under the categories listed below:

- category A.2: identifying and contact information of the Prosecutor’s, VWU or other Court staff members who travel frequently to, or are based in, the field, insofar as disclosure of this information could hinder their work in the field and thereby put at risk the ongoing or future investigations of the Prosecutor [...] such as psycho-social experts.
- category A.3: identifying and contact information of translators, interpreters, stenographers and psycho-social experts assisting during interviews who are not Staff members but who travel frequently to, or are based in the field (insofar as disclosure of this information could hinder their work so that the Prosecutor could no longer rely on them, and thereby put at risk ongoing or future investigations of the Prosecutor).

From the foregoing the Prosecution respectfully requests the Chamber to order that, the Defence and Participants refrain from the dissemination of the witness preparation videos of P-1289, including with its staff in the field.

Kind regards,

Holo Makwaia.