

Annex 33

From: Trial Chamber V Communications
Sent: 03 September 2020 16:50
To: Vanderpuye, Kweku; Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team
Cc: [REDACTED]
Subject: Decision on Prosecution's Extension Request

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Counsel,

In light of the parties' agreement on the timeline and the manner of disclosure for the materials related to P-0306, as set out in the request, the Single Judge grants the requested extension.

Kind regards, TC V

From: Vanderpuye, Kweku
 Sent: 03 September 2020 16:13
 To: Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team
 Subject: RE: Decision on Prosecution Request ICC-01/14-01/18-628-Conf-Exp/Conf-Red
 Importance: High

Dear Trial Chamber V,

Thank you for the clarification that this will involve a disclosure to the defence teams rather than a filing to the Chamber.

In light of our misunderstanding regarding the provisional disposition of our request, the Prosecution respectfully requests an extension until 14 September 2020 to implement the 'identity redactions' and to provide and disclose the transcripts of P-0306 on a rolling basis, as described below. The transcripts comprise 471 pages of material which require very careful and time-consuming scrutiny as well as multiple layers of review.

The Prosecution has engaged the parties in this matter, which have agreed (the Ngaissona Defence expressly, and the Yekatom Defence, concurring) to the disclosure of at least 150 pages of the transcripts by Monday, 7 September 2020, followed by the disclosure of at least 150 pages every three days thereafter until all materials are disclosed by Monday, 14 September 2020. Accordingly, the Prosecution seeks the Chamber's leave to disclose the material in the manner set out above.

Please advise as to whether this would be acceptable to the Chamber. We regret any inconvenience caused by our misunderstanding of the Order. Thank you.

Kind regards,

Kweku Vanderpuye

From: Trial Chamber V Communications
 Sent: 03 September 2020 12:50

To: Vanderpuye, Kweku; Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team
 Subject: RE: Decision on Prosecution Request ICC-01/14-01/18-628-Conf-Exp/Conf-Red

Dear Kweku,

The Chamber clarifies that it *provisionally* granted delayed disclosure for the identity and complete version of the statement (pending the Chamber's assessment of a request brought pursuant to Rule 81(4) of the Rules).

In light of the fact that the Defence is already privy to certain details about this witness (*see* Provisional Witness List), and in order to mitigate the prejudice caused to the Defence by the delayed disclosure, the Chamber considered that the Prosecution should provide the Defence with a redacted version of the statement at this stage, applying any redaction needed to protect the identity of the witness.

Kind regards, TC V

From: Vanderpuye, Kweku
 Sent: 03 September 2020 12:01
 To: Trial Chamber V Communications; OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team
 Subject: RE: Decision on Prosecution Request ICC-01/14-01/18-628-Conf-Exp/Conf-Red
 Importance: High

Dear Trial Chamber V,

As regards the following: “[t]he Chamber further instructs the Prosecution to file a redacted version of P-0306’s statement by **7 September 2020**”, it is unclear what ‘redactions’ the order refers to; particularly here, as the Prosecution is requesting delayed disclosure. Otherwise, normatively the Prosecution provides the Chamber with an *unredacted* version of transcripts which, of course, we are disposed to do; similarly in respect of identifying *standard redactions*.

It would be helpful if you could please clarify this for us at the earliest. Thanks very much.

Kind regards,

Kweku Vanderpuye

From: Trial Chamber V Communications
 Sent: 31 August 2020 14:58
 To: OTP CAR IIB Managers; OTP CAR IIB Case Management; D29 Yekatom Defence Team; D30 Ngaissona Defence Team; V44LRVTeam-OPCV; V44 LRV Team; V45 LRV Team; Trial Chamber V Communications
 Subject: Decision on Prosecution Request ICC-01/14-01/18-628-Conf-Exp/Conf-Red
 Importance: High

Dear all,

The Chamber takes note of the ‘Prosecution’s Request pursuant to Regulation 35 to vary the Time Limit for Disclosure of evidence related to trial witnesses listed on the Preliminary Witness’ (ICC-01/14-01/18-628-Conf-Exp and Conf-Red) (the ‘Request’); the responses filed by the Defence (Yekatom Defence Response, ICC-01/14-01/18-629-Conf; Ngaissona Defence Response, ICC-01/14-01/18-638-Conf); and the observations submitted by the VWU (ICC-01/14-01/18-635-Conf-Exp).

After considering the submissions therein, the Chamber hereby partially decides on the Request, with full reasons to follow.

A. First Sub-request**a. P-2582, P-2620 and P-2671**

The Chamber grants the Prosecution's First Sub-request in relation to P-2582, P-2620 and P-2671, authorising it to disclose the identities and unredacted statements of these witnesses once the protection measures for P-2582 and P-2620 are in place, and latest by **9 November 2020**.

However, the Chamber instructs the Prosecution to disclose redacted versions of P-2582, P-2620 and P-2671's statements, in consultation with the VWU, by **7 September 2020**.

The Chamber instructs the VWU to submit reports to the Chamber on 21 September and 21 October 2020 on the progress made with regard to the implementation of protective measures for P-2582 and P-2620.

b. P-0306

The Chamber *provisionally* grants the Prosecution's First Sub-request in relation to P-0306.

The Chamber however considers that the requested relief is an exceptional measure and must therefore be justified by way of a detailed and thorough request under Rule 81(4) of the Rules of Procedure. The Chamber instructs the Prosecution to file such request by **29 September 2020**, including specific information about the current circumstances of P-0306 and any other details which may justify its Rule 81(4) request.

The Chamber further instructs the Prosecution to file a redacted version of P-0306's statement by **7 September 2020**.

B. Second Sub-request**a. P-1839**

The Chamber takes note of the Prosecution's email notifying that it has already disclosed P-1839's transcripts (email from the Prosecution to the Chamber, 31 August 2020, at 11:34). The Chamber grants the Prosecution's request in the email to withdraw the Second Sub-request in relation to P-1839 and considers all submissions in relation to this sub-request to be moot.

b. P-0889

The Chamber rejects the Prosecution's Second Sub-request in relation to P-0889, and instructs it to disclose the transcripts relating to this witness by **14 September 2020**.

The Chamber further instructs the Prosecution to disclose the audio-recorded interview of P-0889 by **31 August 2020**, unless it is necessary to implement redactions, in which case the Prosecution is instructed to effect disclosure by **7 September 2020**.

c. P-0992

As regards P-0992's first interview, the Chamber refers to its order below (see C. Third Sub-Request).

As regards P-0992's second interview, the Chamber grants the Prosecution's Second Sub-request, authorising it to disclose the transcript of the witness's second interview as soon as feasible and, at the latest, by **9 November 2020**.

d. P-0965, P-0458, P-2233 and P-2602

The Chamber grants the Second Sub-request in relation to the Sango transcripts of P-0965, P-0458, P-2233 and P-2602, authorising the Prosecution to disclose the transcripts and/or audios of these witnesses by **9 November 2020**. The Prosecution is instructed to effect disclosure **on a rolling basis**.

C. Third Sub-request

The Chamber grants the Third Sub-request, and authorises the Prosecution to disclose the statements of P-1143, P-1172, P-2377, P-0992, P-1558 and P-2587, which are the subject of the Prosecution's pending request ICC-01/14-01/18-609-Conf-Ex, within **one week** of issuing the Chamber's decision on this request.

The Chamber will issue its fully reasoned decision on the Request in due course.

Kind regards, TC V