

Annex 11

From: Trial Chamber V Communications
Sent: 05 November 2020 16:02
To: [REDACTED]; Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; V44 LRV Team; D29 Yekatom Defence Team; V44LRVTeam-OPCV; V45 LRV Team; OTP CAR IIB Managers; [REDACTED]
Subject: RE: Inadvertent disclosure of information in CAR-OTP-2127-0653

Follow Up Flag: Follow up
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Categories: Red Category

Dear Counsel,

The Single Judge takes note of the Prosecution's Request below, which essentially contains two sub-requests: (1) the request for a 'standing order', authorizing the Prosecution to 're-disclose exhibits requiring standard redactions consistent with the Redactions Protocol', and (2) the request to 're-disclose' exhibit CAR-OTP-2127-0653.

At the outset, the Single Judge confirms CMS's understanding that the Prosecution is required to seek the Chamber's authorisation in case it wishes to upload a new version of an exhibit with additional redactions, irrespective of the inadvertent disclosure of the original version and the fact that the additional redactions in the new version are standard redactions under the Redactions Protocol (ICC-01/14-01/18-677-Anx3). In this context, the Single Judge further clarifies that, following consultations with CMS, an exhibit cannot be 're-disclosed' in the sense that the originally submitted version is replaced. The originally submitted version will remain in Ecourt, but access thereto will be restricted to the submitting party. The newly submitted version will be registered in Ecourt separately.

The Single Judge does not find it appropriate to issue a 'standing order', as requested by the Prosecution. Any assessment of the need to restrict access to the originally submitted version must be made on a case-by-case basis, bearing in mind the specifics of each request. Accordingly, the Single Judge rejects sub-request (1).

Having considered sub-request (2), the Single Judge grants the request and instructs CMS to restrict access to the original version of CAR-OTP-2127-0653 accordingly.

Kind regards, TC V

From: [REDACTED]
Sent: 02 November 2020 12:58
To: Trial Chamber V Communications
Cc: D30 Ngaissona Defence Team; V44 LRV Team; D29 Yekatom Defence Team; V44LRVTeam-OPCV; V45 LRV Team; OTP CAR IIB Managers
Subject: Inadvertent disclosure of information in CAR-OTP-2127-0653

Dear Trial Chamber V,

On 28 October 2020, the Prosecution informed the Chamber, Parties, and Participants of the inadvertent disclosure of information in CAR-OTP-2127-0653. An address of a witness was inadvertently disclosed in that exhibit. The Prosecution now intends to re-disclose a corrected version of the exhibit with the address redacted, a redaction which falls under the Redactions Protocol (ICC-01/14-01/18-64-Conf and ICC-01/14-01/18-459). It is our understanding that CMS now requires the Chamber, itself, to authorise the Prosecution's re-disclosure of the exhibit in eCourt. While the Prosecution is uncertain of the rationale for requiring the Chamber's intervention in correcting

an inadvertent disclosure within the terms of the Redactions Protocol, it nevertheless requests authorisation to re-disclose the corrected version of CAR-OTP-2127-0653.

Additionally, rather than requesting specific approval from the Chamber on each occasion the Prosecution corrects or updates a standard redaction on an exhibit, the Prosecution requests a standing order from the Chamber authorizing the Prosecution to re-disclose exhibits requiring standard redactions consistent with the Redactions Protocol.

Thank you for your kind attention to this matter.

Kind regards,

On behalf of
Kweku Vanderpuye