

# Annex 35

Public

**From:** Trial Chamber III Communications  
**Sent:** 28 April 2022 14:13  
**To:** Steynberg, Anton; Trial Chamber III Communications  
**Cc:** Trial Chamber III Legal Officers; Associate Legal Officer-Court Officer; D32 Gicheru Defence team; OTP KEN art70 [REDACTED]; Chamber Decisions Communication  
**Subject:** RE: Request for additional redactions to the testimony of P-0739  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Parties and Registry,

The Prosecution's request for redactions is granted.

The Registry is ordered to implement the Prosecution's proposed redactions before publication of the public redacted versions of the relevant transcripts.

Kind Regards,  
Trial Chamber III

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**From:** Steynberg, Anton [REDACTED]  
**Sent:** 26 April 2022 19:09  
**To:** Trial Chamber III Communications <TrialChamberIIICommunications[REDACTED]>  
**Cc:** Trial Chamber III Legal Officers <TrialChamberIIILegalOfficers[REDACTED]>; Associate Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer[REDACTED]> D32 Gicheru Defence team <D32GicheruDefenceteam[REDACTED]> OTP KEN art70 [REDACTED]  
**Subject:** Request for additional redactions to the testimony of P-0739

Dear Trial Chamber III,  
Your Honour,

In light of the Trial Chamber III's decision dated 14 April with respect to the procedure for reviewing the PRVs of the transcripts and for requesting discrete additional redactions, the Prosecution respectfully requests the following redactions to the testimony of **P-0739**, for the reasons set out.

The Prosecution has ascertained that the PRVs of the below mentioned transcripts have not yet been notified or made public on the ICC website (as of the time of sending). Once the PRVs have been notified, the Prosecution will provide its suggestions for lesser-redacted versions of these transcripts.

**1. ICC-01/09-01/20-T-066-CONF-ENG ET**

- P. 39, In. 14: The Prosecution requests the redaction of [REDACTED] as this name was reflected as "indiscernible" in the Real Time Transcript, which did not allow the Prosecution to request redaction during the hearing.
- P. 56, In. 12: The Prosecution requests the redaction of [REDACTED]. The name of the hotel is not reflected in the Real Time Transcript, which did not allow the Prosecution to request redaction during the hearing.

**2. ICC-01/09-01/20-T-067-CONF-ENG ET**

- P. 64, Ins. 12/13: The Prosecution requests the redaction of [REDACTED]. These organisations were included in the Prosecution's Protected Information List (PIL), the latter two of which were added at the request of the Defence. However, Defence Counsel failed to make use of the PIL in this instance.

### 3. ICC-01/09-01/20-T-068-CONF-ENG ET

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- P. 18, In. 8: The Prosecution requests the redaction of [REDACTED] for the aforementioned reason.

- P. 20, Ins. 9/12/17/18 and 20: The Prosecution requests the redaction of [REDACTED]. Counsel is quoting a portion of evidence that has been given in private session by the witness in the *Ruto & Sang* case. [REDACTED]

[REDACTED] Counsel's reference to this date could reveal the witness's identity since it refers to his arrival in Kenya.

- P. 21, In. 6: The Prosecution requests the redaction of [REDACTED] for the above mentioned reason.

- P. 21, Ins. 7/8: The Prosecution requests the redaction of [REDACTED] for the above mentioned reason.

- P. 21, In. 15: The Prosecution requests the redaction of [REDACTED] for the above mentioned reason.

- P. 76, Ins. 18-20: The Prosecution requests the redaction of [REDACTED] [REDACTED]

- P. 78, In. 6: The Prosecution requests the redaction of [REDACTED]. Since P-0739 was the only witness to testify on that date, Counsel's reference to the date of the witness's testimony in the *Ruto & Sang* case would identify him as [REDACTED] in the that case, which would defeat the purpose of [REDACTED] and might in turn reveal his identity.

- P. 79, In. 8: The Prosecution requests the redaction of [REDACTED] and [REDACTED]. The witness's evidence on these topics was elicited in private session during his examination in chief and should therefore remain confidential.

- P. 80, In. 1: The Prosecution requests the redaction of [REDACTED]. The name is not reflected in the Real Time Transcript, which did not allow the Prosecution to request redaction during the hearing.

- P. 82, In. 16: The Prosecution requests the redaction of [REDACTED] since the reference to the date of the witness's testimony in the *Ruto & Sang* case might reveal his identity, for the reasons discussed above.

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- P. 90, Ins. 12/13: The Prosecution requests the redaction of [REDACTED] and [REDACTED] since Counsel's reference to the length and dates of the witness's testimony in the *Ruto & Sang* case might reveal his identity for the reasons discussed above. It was not possible to make this assessment in real time while following the cross examination of the witness, since it required accessing and analysing extraneous material.

- P. 90, Ins. 19-25: The Prosecution requests the redaction of [REDACTED]

[REDACTED] In this footnote of Trial Chamber V's decision ICC-01/09-01/11 [REDACTED], which is available publicly, the witness is identified [REDACTED] which might in turn reveal his identity. It was not possible to make this assessment in real time while following the cross examination of the witness, since it required accessing and analysing extraneous material.

- P. 91, In. 1: The Prosecution requests the redaction of [REDACTED] since Counsel's reference to the length of the witness's testimony in the *Ruto & Sang* case might reveal his identity for the reasons discussed above. It was not possible to make this assessment in real time while following the cross examination of the witness, since it required accessing and analysing extraneous material.

For the reasons elaborated above, the Prosecution respectfully requests the Trial Chamber to exceptionally grant these additional redactions in the public redacted versions, when published.

Sincerely,  
Anton Steynberg

**From:** Mascetti, Daria [REDACTED]  
**Sent:** 28 April 2022 13:27  
**To:** Trial Chamber III Communications; Steynberg, Anton  
**Cc:** Trial Chamber III Legal Officers; Associate Legal Officer-Court Officer; D32 Gicheru Defence team; OTP KEN art70 [REDACTED]  
**Subject:** RE: Request for additional redactions to the testimony of P-0739  
**Categories:** Court Officer, Gicheru

Dear Honorable Single Judge of Trial Chamber III,  
Dear Prosecution,

On behalf of Mr. Karnavas, the Defence has no objections to the OTP's additional redactions to P-0739's testimony.

Sincerely yours,  
Daria

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**From:** Trial Chamber III Communications <TrialChamberIIICommunications [REDACTED]>  
**Sent:** 28 April 2022 12:46  
**To:** Steynberg, Anton [REDACTED] Trial Chamber III Communications <TrialChamberIIICommunications [REDACTED]>  
**Cc:** Trial Chamber III Legal Officers <TrialChamberIIILegalOfficers [REDACTED]> Associate Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer [REDACTED]>; D32 Gicheru Defence team <D32GicheruDefenceteam [REDACTED]> OTP KEN art70 [REDACTED]  
**Subject:** RE: Request for additional redactions to the testimony of P-0739

Dear Prosecution,

The Chamber takes note of your request.

The Chamber orders the Defence to provide its response to the Prosecution's request no later than Monday 2<sup>nd</sup> May.

Kind Regards,  
Trial Chamber III

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**From:** Steynberg, Anton [REDACTED]  
**Sent:** 26 April 2022 19:09  
**To:** Trial Chamber III Communications <[TrialChamberIIICommunications \[REDACTED\]](#)>  
**Cc:** Trial Chamber III Legal Officers <[TrialChamberIIILegalOfficers \[REDACTED\]](#)>; Associate Legal Officer-Court Officer <[AssociateLegalOfficer-CourtOfficer \[REDACTED\]](#)>; D32 Gicheru Defence team <[D32GicheruDefenceteam \[REDACTED\]](#)>; OTP KEN art70 [REDACTED]  
**Subject:** Request for additional redactions to the testimony of P-0739

Dear Trial Chamber III,  
Your Honour,

In light of the Trial Chamber III's decision dated 14 April with respect to the procedure for reviewing the PRVs of the transcripts and for requesting discrete additional redactions, the Prosecution respectfully requests the following redactions to the testimony of **P-0739**, for the reasons set out.

The Prosecution has ascertained that the PRVs of the below mentioned transcripts have not yet been notified or made public on the ICC website (as of the time of sending). Once the PRVs have been notified, the Prosecution will provide its suggestions for lesser-redacted versions of these transcripts.

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- P. 56, In. 12: The Prosecution requests the redaction of [REDACTED]. The name of the hotel is not reflected in the Real Time Transcript, which did not allow the Prosecution to request redaction during the hearing.

**2. ICC-01/09-01/20-T-067-CONF-ENG ET**

- P. 64, Ins. 12/13: The Prosecution requests the redaction of [REDACTED]. These organisations were included in the Prosecution’s Protected Information List (PIL), the latter two of which were added at the request of the Defence. However, Defence Counsel failed to make use of the PIL in this instance.

**3. ICC-01/09-01/20-T-068-CONF-ENG ET**

- P. 18, In. 5: The Prosecution requests the redaction of [REDACTED]. During P-0739’s cross-examination in open session, the Prosecution alerted the Chamber at the time that Counsel was quoting portions of transcripts of P-0739’s testimony in the *Ruto & Sang* case, which were given in private session and should therefore be kept confidential. The Chamber subsequent clarified by e-mail dated 24 March 2022 that passages which do not reveal the witness’s identity may still be referenced in public session. However, the Prosecution considers that any reference to [REDACTED] may reveal the witness’s identity and therefore requests post facto redaction of this information. [REDACTED]

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- P. 20, Ins. 9/12/17/18 and 20: The Prosecution requests the redaction of [REDACTED]. Counsel is quoting a portion of evidence that has been given in private session by the witness in the *Ruto & Sang* case. [REDACTED] Counsel’s reference to this date could reveal the witness’s identity since it refers to his arrival in Kenya.
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- P. 76, Ins. 18-20: The Prosecution requests the redaction of [REDACTED] [REDACTED]

- P. 78, In. 6: The Prosecution requests the redaction of [REDACTED]. Since P-0739 was the only witness to testify on that date, Counsel’s reference to the date of the witness’s testimony in the *Ruto & Sang* case would identify him as [REDACTED] in the that case, which would defeat the purpose of [REDACTED] and might in turn reveal his identity.

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- P. 90, Ins. 19-25: The Prosecution requests the redaction of [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] In this footnote of Trial Chamber V's decision ICC-01/09-01/11 [REDACTED], which is available publicly, the witness is identified [REDACTED], which might in turn reveal his identity. It was not possible to make this assessment in real time while following the cross examination of the witness, since it required accessing and analysing extraneous material.
- P. 91, In. 1: The Prosecution requests the redaction of [REDACTED] since Counsel's reference to the length of the witness's testimony in the *Ruto & Sang* case might reveal his identity for the reasons discussed above. It was not possible to make this assessment in real time while following the cross examination of the witness, since it required accessing and analysing extraneous material.

For the reasons elaborated above, the Prosecution respectfully requests the Trial Chamber to exceptionally grant these additional redactions in the public redacted versions, when published.

Sincerely,  
Anton Steynberg

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# Annex 35*bis*

[REDACTED]

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**From:** Trial Chamber III Communications  
**Sent:** 05 May 2022 17:15  
**To:** [REDACTED] Trial Chamber III Communications  
**Cc:** Associate Legal Officer-Court Officer  
**Subject:** RE: Request for additional redactions to the testimony of P-0739

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear [REDACTED]

Thank you for your email and for bringing this to the Chamber's attention.

Please go ahead and process the requested redaction of [REDACTED], Page 82 line 16 as proposed.

Kind Regards,  
[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 05 May 2022 16:53  
**To:** Trial Chamber III Communications <TrialChamberIIICommunications@[REDACTED]>  
**Cc:** Associate Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer@[REDACTED]>  
**Subject:** RE: Request for additional redactions to the testimony of P-0739

Dear all,

I am currently working on processing the granted post-facto redactions. For one of the granted redactions there is an error in the date stated in the OTP's request below, for transcript T-068 (highlighted in yellow below). The ET transcript reads [REDACTED] and not [REDACTED], as provided in the OTP's request. Please find the following screenshot of the ET transcript:



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Would you like me to go ahead in processing the requested post-facto redaction of [REDACTED], Page 82 line 16?

Kind regards,  
Antonia

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**From:** Trial Chamber III Communications <[TrialChamberIIICommunications](#) [REDACTED]>  
**Sent:** 28 April 2022 14:13  
**To:** Steynberg, Anton [REDACTED] Trial Chamber III Communications <[TrialChamberIIICommunications](#) [REDACTED]>  
**Cc:** Trial Chamber III Legal Officers <[TrialChamberIIILegalOfficers](#) [REDACTED]>; Associate Legal Officer-Court Officer <[AssociateLegalOfficer-CourtOfficer](#) [REDACTED]>; D32 Gicheru Defence team <[D32GicheruDefenceteam](#) [REDACTED]> OTP KEN art70 [REDACTED]; Chamber Decisions Communication <[ChamberDecisionsCommunication](#) [REDACTED]>  
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**Sent:** 26 April 2022 19:09  
**To:** Trial Chamber III Communications <[TrialChamberIIICommunications](#) [REDACTED]>  
**Cc:** Trial Chamber III Legal Officers <[TrialChamberIIILegalOfficers](#) [REDACTED]>; Associate Legal Officer-Court Officer <[AssociateLegalOfficer-CourtOfficer](#) [REDACTED]> D32 Gicheru Defence team

<[D32GicheruDefenceteam](mailto:D32GicheruDefenceteam@icc-01/09-01/20-346-Anx35-Red) [REDACTED] OTP KEN art70 [REDACTED]

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