

Annex 10

Public redacted

From: Trial Chamber VI Communications
Sent: 09 March 2023 12:32
To: OTP CAR IIA Communications; D33 Said Defence Team
Cc: Trial Chamber VI Communications; Said LRV Team OPCV; Associate Legal Officer-Court Officer; Chamber Decisions Communication; [REDACTED]
Subject: RE: 230302 - Prosecution's request for guidance on disagreements with the Defence regarding redaction proposals - Part 1 of 3

[ICC] RESTRICTED

Dear Parties,

The Chamber has taken note of the Prosecution's request for guidance regarding disagreements on redactions to the Registry's Reports on Items of Evidence Recognised as Formally Submitted by the Chamber (see emails dated 2 March 2023, at 16:58, 16:59 and 17:00, and corresponding attachments).

The Chamber has similarly taken note of the Defence's request for a formal filing from the Prosecution so that it can, *inter alia*, properly respond (see email dated 3 March 2023 at 15:26).

The Chamber agrees with the Defence that the manner in which the Prosecution has made its request is difficult to follow and finds that a formal filing is required in this instance. However, the Chamber is of the view that it would assist the Chamber's review if the parties filed a joint filing, with annexes as required, clearly setting out their respective positions on redactions to be applied.

Accordingly, the Chamber orders the Prosecution and the Defence to submit a joint filing on this matter.

Kind Regards,
 Trial Chamber VI

From: Jacobs, Dov [REDACTED]
Sent: 03 March 2023 15:26
To: Trial Chamber VI Communications [REDACTED]
Cc: [REDACTED]; OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED]; Associate Legal Officer-Court Officer [REDACTED]
Subject: RE: 230302 - Prosecution's request for guidance on disagreements with the Defence regarding redaction proposals - Part 1 of 3

Chère Chambre de première instance VI,

La Défense a bien pris note de la requête par email envoyée le 2 mars 2023 par l'Accusation concernant les expurgations que l'Accusation souhaite apposer à certains échanges relatifs à la soumission au dossier de l'affaire d'éléments de preuve par le truchement de témoins avant que ces échanges soient formellement déposés au dossier de l'affaire par le Greffe.

La Défense avait compris de ses échanges *inter partes* avec l'Accusation que cette dernière allait déposer une requête en bonne et due forme au dossier de l'affaire, requête qui présenterait les raisons pour lesquelles l'Accusation demandait l'apposition de certaines expurgations - puisque la

charge de la preuve de justifier de l'apposition d'expurgations repose sur la Partie qui la demande, et requête à laquelle la Défense pourrait répondre par une écriture elle-même déposée au dossier de l'affaire.

Aujourd'hui, le format adopté par l'Accusation pour sa demande, avec les arguments de l'Accusation éparpillés au sein de onze documents différents dans plusieurs emails, rend difficile pour la Défense et pour la Chambre de pouvoir saisir de manière cohérente et structurée la position de l'Accusation, ni de déterminer de manière évidente le nombre de pages utilisé par l'Accusation pour sa requête.

Par ailleurs, cette démarche fragmentée ne va pas permettre d'assurer la clarté du dossier, puisqu'il sera ensuite difficile de déposer formellement cette requête par email au dossier de l'affaire: les 11 annexes commentées de l'Accusation vont-elles devoir être elles-mêmes annexées à l'annexe constituée par l'éventuelle décision de la Chambre, qui elle-même sera une annexe à un rapport du Greffe qui sera à son tour déposée au dossier de l'affaire? un tel format sera impossible à suivre et à comprendre pour toute personne qui essaierait à l'avenir de prendre connaissance de la discussion sur cette question.

Dans ces circonstances, la Défense demande respectueusement à la Chambre d'ordonner à l'Accusation de déposer une requête en bonne et due forme au dossier de l'affaire, ce qui permettra à la Défense de prendre connaissance de manière cohérente et claire des arguments de l'Accusation - arguments qu'elle découvre pour la première fois aujourd'hui - afin de pouvoir y répondre dans de bonnes conditions.

Bien à vous,

Dov Jacobs

From: [REDACTED]
Sent: 02 March 2023 16:58
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED]; D33 Said Defence Team [REDACTED]; Said LRV Team OPCV [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: 230302 - Prosecution's request for guidance on disagreements with the Defence regarding redaction proposals - Part 1 of 3

Dear Trial Chamber VI,

The Prosecution wishes to address the Chamber with regards to disagreements with the Defence concerning certain redactions in 9 annexes out of the 14 annexes sent by the Registry (see attached) in order to request the Chamber to make a final ruling on each of them.

On 25 January 2023, the Registry requested the Parties and Participants whether they had any additional redactions to those implemented by the Registry to the Registry's Reports on Items of Evidence Recognised as Formally Submitted by the Chamber for each 14 witnesses (14 annexes in total).

On 1 February 2023, the Legal Representative of the Victims (LRV) proposed additional redactions that were agreed by the Defence and the Prosecution (see email attached).

On 3 January 2013, the Prosecution proposed additional redactions to those already proposed by the Registry and the LRV (see email attached).

On 13 February 2013, the Defence opposed to certain redactions proposed by the Prosecution (see *inter partes* emails with the respective submissions attached) and proposed additional redactions to P-2478 and P-1167 Annexes to which the Prosecution. Furthermore, after *inter partes* discussion, the Prosecution also agreed with the Defence on other proposed redactions in the Annexes of Witnesses P-2478 and P-2240 (see Annexes attached for the completeness of the *inter partes* discussion).

On 20 February 2023, the Prosecution informed the Registry about the redactions agreed by all the Parties and Participants (see email attached).

The Prosecution respectfully submits to the Chamber its justifications concerning certain proposed redactions it disagreed with the Defence which are detailed in the attached Annexes. The Prosecution notes its proposed redactions pursuant to rule 81(4) and rule 81(2) of the Rules of Procedure and Evidence concern either information which risk identifying the witnesses or concern information which is otherwise confidential as it relates to cooperation or confidential domestic proceedings or information.

The Prosecution listed in each annex the “disagreement” or “partial disagreement” with the Defence on additional proposed redactions numbering them, such as for example “Disagreement (1)” and “Partial disagreement (2)”, but also noted in each annex, the “agreement” on all additional proposed redactions that were agreed on by all the Parties and Participants for the completeness of the *inter partes* discussion. The Prosecution marked the information in “blue highlights” for the redactions it requests and the information in “red (crossed-out)” for the redactions that it initially proposed *inter partes* but no longer seeks to redact after *inter partes* discussion.

The 11 Annexes attached are related to witnesses:

1. **P-0547**
2. **P-0338**
3. **P-3056**
4. **P-2105**
5. **P-3108**
6. **P-2400**
7. **P-2240 (all additional proposed redactions are agreed upon)**
8. **P-2478 (all additional proposed redactions are agreed upon)**
9. **P-0787**
10. **P-1167**
11. **P-1429**

The annexes and correspondences referenced in this email will be sent in three parts due to their size.

Best regards,

This message contains information that may be privileged or confidential and is the property of the International Criminal Court. It is intended only for the person to whom it is addressed. If you are not the intended recipient, you are not authorized by the owner of the information to read, print, retain copy, disseminate, distribute, or use this message or any part hereof. If you receive this message in error, please notify the sender immediately and delete this message and all copies hereof.

Les informations contenues dans ce message peuvent être confidentielles ou soumises au secret professionnel et elles sont la propriété de la Cour pénale internationale. Ce message n'est destiné qu'à la personne à laquelle il est adressé. Si vous n'êtes pas le destinataire voulu, le propriétaire des informations ne vous autorise pas à lire, imprimer, copier, diffuser, distribuer ou utiliser ce message, pas même en partie. Si vous avez reçu ce message par erreur, veuillez prévenir l'expéditeur immédiatement et effacer ce message et toutes les copies qui en auraient été faites.