

Annex 36

Public

From: Trial Chamber III Communications
Sent: 06 May 2022 10:03
To: Mascetti, Daria; Steynberg, Anton; Trial Chamber III Communications
Cc: Trial Chamber III Legal Officers; D32 Gicheru Defence team; OTP KEN art70 [REDACTED]; Associate Legal Officer-Court Officer; [REDACTED] Chamber Decisions Communication
Subject: RE: Request for post facto redactions: P-0613

Dear Parties and Registry,

The Chamber has considered the Prosecution's request and the lack of objection from the Defence.

The Chamber notes that this is the second request by the Prosecution for post facto redactions. The Chamber recalls its earlier email decision dated 14 April 2022 at 10:03 wherein it held that post facto redactions should be kept to a minimum, particularly given that they will have limited effect as the proceedings will have already been publicly broadcast. The Chamber reiterates that the Parties have the obligation to ensure that redactions are carried out during the course of the hearing and exercise diligence in this regard. The Chamber notes that a number of the post facto redactions sought by the Prosecution in the present request could and should have been requested during the course of the hearing.

The above notwithstanding, the Chamber grants the Prosecution's request.

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

Kind Regards,
 Trial Chamber III

From: Mascetti, Daria [REDACTED]
Sent: 03 May 2022 10:29
To: Steynberg, Anton [REDACTED]; Trial Chamber III Communications <TrialChamberIIICommunications[REDACTED]>
Cc: Trial Chamber III Legal Officers <TrialChamberIIILegalOfficers[REDACTED]> D32 Gicheru Defence team <D32GicheruDefenceteam[REDACTED]>; OTP KEN art70 [REDACTED]; Associate Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer[REDACTED]>
Subject: RE: Request for post facto redactions: P-0613

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-0613's testimony.

Sincerely yours,
 Daria

From: Steynberg, Anton [REDACTED]
Sent: 02 May 2022 13:13
To: Trial Chamber III Communications <TrialChamberIIICommunications[REDACTED]>
Cc: Trial Chamber III Legal Officers <TrialChamberIIILegalOfficers[REDACTED]> D32 Gicheru Defence team

<D32GicheruDefenceteam [REDACTED]; OTP KEN art70 [REDACTED] Associate
 Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer [REDACTED]; [REDACTED]
 [REDACTED]

Subject: Request for post facto redactions: P-0613

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-0613**, for the reasons set out. The requested redactions are all contained in transcript ICC-01/09-01/20-T-056-CONF-ENG ET.

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

ICC-01/09-01/20-T-056-CONF-ENG ET

- a. Page 6, Ins. 20, 23-24: the Prosecution requests the redaction of [REDACTED] and [REDACTED] as these are the initials of P-0613 and another individual included in the PIL. Unfortunately this identifying information was not detected at the time, either by the Prosecution or by the questioning party, but since the witness' initials, and that of the Ruto and Sang witness [REDACTED] are clearly potentially identifying, the Prosecution requests that these redactions are nevertheless authorised.
- b. Page 15, In. 17: the Prosecution requests the redaction of [REDACTED]. As per item a. the Prosecution requests post facto redaction.
- c. Page 17, In. 2: the Prosecution requests the redaction of [REDACTED]. This organisation was included in the PIL for this witness, but on this occasion counsel did not make use of the PIL. As per item a. the Prosecution requests post facto redaction.
- d. Page 108, Ins. 22-23: the Prosecution requests the redaction of [REDACTED] and [REDACTED]. The Prosecution tried to redact references to [REDACTED]. However, due to a technical problem with the Real Time Transcript in Transcend, it was not possible to submit the request within the 30 minutes window. The Prosecution explained the problem to the Court Officers via email on 24 February 2022 (copies attached), who suggested that we should seek post facto redactions. Since the references to [REDACTED] are potentially identifying, the Prosecution requests the post facto redaction of this and the following identifying information relating to this incident:
- e. Page 109, Ins. 3 and 24: the Prosecution requests the redaction of [REDACTED] and [REDACTED] for the same reasons stated in item d. above.
- f. Page 110, Ins. 1-2, 6, 21, 25: the Prosecution requests the redaction of [REDACTED] and [REDACTED] for the same reasons stated in item d. above.
- g. Page 111, Ins. 5-12: the Prosecution requests the redaction of [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED] for the same reasons stated in item d. above.

The Prosecution thus 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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