

Annex 1

Public

From: Trial Chamber III Communications
Sent: 25 March 2022 11:17
To: OTP KEN art70 [REDACTED]; D32 Gicheru Defence team; Associate Legal Officer-Court Officer
Cc: Trial Chamber III Communications
Subject: Decision on Submitted Materials for P-0613
Attachments: Prosecution's list of material for formal submission: P-0613; Defence List of items for submission into evidence - P-0613; RE: Defence List of items for submission into evidence - P-0613

Dear Counsel and Registry:

The Prosecution requests to recognise 150 items as formally submitted (Email from the Prosecution, 1 March 2022, at 17:40) and the Defence requests that 55 items are recognised as formally submitted (Email from the Defence, 1 March 2022, 19:25).

On 4 March 2022, the Prosecution submitted a response to the Email of the Defence (Email from the Prosecution, 4 March 2022, at 10:33), stating that it does not object to any of the items in the Defence list and pointing out that eleven of the items are also included in its own list.

With regard to the items submitted by the Prosecution, the Chamber notes that the Defence does not oppose their recognition as formally submitted.

Further, the items constituting prior recorded testimony fulfil all the requirements of Rule 68(3) of the Rules and their introduction has been authorised by the Chamber (see ICC-01/09-01/20-223). The remainder of the items put forward for submission have been discussed in one form or another during the witnesses testimony.

Accordingly, the Chamber recognises all items in the Prosecution's email as formally submitted.

With regard to the items submitted by the Defence, the Chamber notes the Prosecution's comment that a number of items have also been included in the Prosecution's list of submitted items. As previously explained (see, Decision on Submitted Materials for P-0800), once an item is recognised as formally submitted there is no need to repeat such request. The Registry does therefore not need to mark these items a second time as recognised as formally submitted.

The Chamber notes that the Defence requests that 8 items be recognised as formally submitted which are transcripts of the testimony [REDACTED] provided in the case *The Prosecutor v. William Samoei Ruto and Joshua Arap Sang* (Items 42, 43, 44, 45, 46, 47, 49 and 54). All these items fall under Rule 68 of the Rules of the Procedure and Evidence and the pre-conditions of that provision are not fulfilled.

Accordingly, the Chamber rejects the request to recognise these items as formally submitted.

However, as an explanatory note, the Chamber notes that the Defence requests to introduce these transcripts only concerning specific parts which it had read out in court during the witness's testimony and discussed in its questioning (e.g. item 42, ICC-01/09-01/20-T-041, p. 65, lines 11 to 23, p. 77, lines 2-7; this was read out verbatim by counsel during questioning, see ICC-01/09-01/20-T-057-Conf-ENG page 22, lines 5-19; equally T-041, p. 77, lines 2-7; this was also partly read out by counsel during questioning and the content discussed with the witness, see ICC-01/09-01/20-T-057-Conf-ENG page 25, lines 19-24, ff.). Accordingly, the information the Defence wishes to introduce into evidence is already on the record of the case.

Lastly, the Chamber notes that some of the ERNs the Defence provides on its list are incomplete (not indicating whether the item in question is a redacted version of the document and, if so, which version). The Defence is instructed to provide the full reference in future requests. Should the Registry have any problems identifying the exact ERN during the implementation of this decision, it is to liaise with the Defence accordingly.

In summary, for P-0613, the Chamber recognises all items requested by the Prosecution and all items requested by the Defence – with the exception of items 42, 43, 44, 45, 46, 47, 49 and 54 on the Defence’s list of items – as formally submitted.

The Registry is directed to proceed in accordance with paragraph 17(iv) of the Directions on the Conduct of the Proceedings, 7 October 2021, ICC-01/09-01/20-189.

Kind regards,
Trial Chamber III

From: Steynberg, Anton
Sent: 01 March 2022 17:40
To: Trial Chamber III Communications
Cc: Trial Chamber III Legal Officers; D32 Gicheru Defence team; OTP KEN art70 [REDACTED]
Subject: Prosecution's list of material for formal submission: P-0613

Dear Trial Chamber III,
Your Honour,

The Prosecution submits herewith the list of evidence referred to during the testimony of P-0613 that it requests to be recognised as formally submitted into evidence.

Regards,
Anton Steynberg

Items of evidence for submission: P-0613

1. KEN-OTP-0102-0178
2. KEN-OTP-0140-0392
3. KEN-OTP-0140-0393
4. KEN-OTP-0106-0910
5. KEN-OTP-0106-0919
6. KEN-OTP-0106-0920
7. KEN-OTP-0106-0921
8. KEN-OTP-0106-0922
9. KEN-OTP-0106-0931
10. KEN-OTP-0106-0932
11. KEN-OTP-0106-0933
12. KEN-OTP-0106-0934
13. KEN-OTP-0111-0162
14. KEN-OTP-0111-0175
15. KEN-OTP-0111-0176
16. KEN-OTP-0111-0177
17. KEN-OTP-0111-0178
18. KEN-OTP-0111-0179
19. KEN-OTP-0111-0180
20. KEN-OTP-0111-0181
21. KEN-OTP-0111-0182
22. KEN-OTP-0111-0183
23. KEN-OTP-0111-0184
24. KEN-OTP-0111-0185
25. KEN-OTP-0111-0186
26. KEN-OTP-0111-0557
27. KEN-OTP-0111-0574
28. KEN-OTP-0111-0575
29. KEN-OTP-0111-0576
30. KEN-OTP-0111-0577
31. KEN-OTP-0111-0578
32. KEN-OTP-0111-0579
33. KEN-OTP-0111-0580
34. KEN-OTP-0111-0581

35. KEN-OTP-0115-0216-R01
36. KEN-OTP-0115-0234
37. KEN-OTP-0115-0235
38. KEN-OTP-0115-0236
39. KEN-OTP-0115-0237
40. KEN-OTP-0115-0238
41. KEN-OTP-0115-0239
42. KEN-OTP-0115-0240
43. KEN-OTP-0118-0137
44. KEN-OTP-0124-0007
45. KEN-OTP-0124-0394-R01
46. KEN-OTP-0160-0609-R01
47. KEN-OTP-0160-0625
48. KEN-OTP-0106-0908_01
49. KEN-OTP-0111-0556 (Track 3 enhanced)
50. KEN-OTP-0111-0556 (Track 4 enhanced)
51. KEN-OTP-0111-0556 (Track 7 enhanced)
52. KEN-OTP-0111-0556 (Track 11 enhanced)
53. KEN-OTP-0111-0556 (Track 13 enhanced)
54. KEN-OTP-0111-0556 (Track 15 enhanced)
55. KEN-OTP-0111-0556 (Track 16 enhanced)
56. KEN-OTP-0111-0556 (Track 17 enhanced)
57. KEN-OTP-0111-0556 (Track 18 enhanced)
58. KEN-OTP-0116-0112 (Track 2 enhanced)
59. KEN-OTP-0116-0112 (Track 3 enhanced)
60. KEN-OTP-0116-0112 (Track 4 enhanced)
61. KEN-OTP-0116-0112 (Track 5 enhanced)
62. KEN-OTP-0116-0112 (Track 6 enhanced)
63. KEN-OTP-0116-0112 (Track 8-enhanced)
64. KEN-OTP-0116-0112 (Track 9 enhanced)
65. KEN-OTP-0111-0556 (Track 21 enhanced)
66. KEN-OTP-0111-0556 (Track 22 enhanced)
67. KEN-OTP-0111-0556 (Track 23 enhanced)
68. KEN-OTP-0111-0556 (Track 24 enhanced)
69. KEN-OTP-0111-0556 (Track 25 enhanced)
70. (KEN-OTP-0111-0556 (Track 26 enhanced)
71. KEN-OTP-0111-0556 (Track 2 enhanced)
72. KEN-OTP-0111-0556 (Track 1 enhanced)
73. KEN-OTP-0115-0241 (enhanced)
74. KEN-OTP-0115-0242
75. KEN-OTP-0115-0243 (Track 01 enhanced)
76. KEN-OTP-0115-0248 (enhanced)
77. KEN-OTP-0115-0246 (Tracks 8, 11)
78. KEN-OTP-0115-0247 (Track 8 enhanced)
79. KEN-OTP-0115-0247 (Track 9 enhanced)
80. KEN-OTP-0153-0526
81. KEN-OTP-0153-0513
82. KEN-OTP-0160-1194
83. KEN-OTP-0160-1321
84. KEN-OTP-0160-1197
85. KEN-OTP-0160-1325
86. KEN-OTP-0160-1204
87. KEN-OTP-0160-1334
88. KEN-OTP-0160-1209
89. KEN-OTP-0160-1341
90. KEN-OTP-0160-1215
91. KEN-OTP-0160-1349
92. KEN-OTP-0160-1223
93. KEN-OTP-0160-1359

94. KEN-OTP-0160-1225
95. KEN-OTP-0160-1362
96. KEN-OTP-0160-1229
97. KEN-OTP-0160-1367
98. KEN-OTP-0160-1232
99. KEN-OTP-0160-1371
100. KEN-OTP-0160-1289
101. KEN-OTP-0160-1149
102. KEN-OTP-0160-1292
103. KEN-OTP-0160-1153
104. KEN-OTP-0160-1294
105. KEN-OTP-0160-1156
106. KEN-OTP-0160-1297
107. KEN-OTP-0160-1160
108. KEN-OTP-0160-1299
109. KEN-OTP-0160-1163
110. KEN-OTP-0160-1303
111. KEN-OTP-0160-1170
112. KEN-OTP-0160-1306
113. KEN-OTP-0160-1175
114. KEN-OTP-0160-1237
115. KEN-OTP-0160-1377
116. KEN-OTP-0160-1242
117. KEN-OTP-0160-1383
118. KEN-OTP-0160-1244
119. KEN-OTP-0160-1386
120. KEN-OTP-0160-1247
121. KEN-OTP-0160-1390
122. KEN-OTP-0160-1252
123. KEN-OTP-0160-1396
124. KEN-OTP-0160-1256
125. KEN-OTP-0160-1401
126. KEN-OTP-0160-1190
127. KEN-OTP-0160-1316
128. KEN-OTP-0160-1185
129. KEN-OTP-0160-1310
130. KEN-OTP-0160-1263
131. KEN-OTP-0160-1115
132. KEN-OTP-0119-0457
133. KEN-OTP-0118-1976
134. KEN-OTP-0160-1266
135. KEN-OTP-0160-1120
136. KEN-OTP-0160-1270
137. KEN-OTP-0160-1126
138. KEN-OTP-0119-0465
139. KEN-OTP-0118-1988
140. KEN-OTP-0160-1044
141. KEN-OTP-0160-1050
142. KEN-OTP-0160-1046
143. KEN-OTP-0160-1053
144. KEN-OTP-0138-0649
145. KEN-OTP-0138-0652
146. KEN-OTP-0138-0663

147. KEN-OTP-0160-1587
148. KEN-OTP-0160-1594
149. KEN-OTP-0160-1579
150. KEN-OTP-0160-1608

From: Steynberg, Anton
Sent: 04 March 2022 10:33
To: Trial Chamber III Communications
Cc: D32 Gicheru Defence team; [REDACTED] Associate Legal Officer-Court Officer;
 OTP KEN art70 [REDACTED]
Subject: RE: Defence List of items for submission into evidence - P-0613

Dear Trial Chamber III,
 Your Honour,

The Prosecution responds as follows to the Defence list of material for P-0613 to be submitted into evidence, sent on 1 March 2022:

1. The Prosecution does not object to the formal submission into evidence of any of the items listed.
2. The Prosecution notes that eleven of the items listed, namely items 15, 16, 18, 19, 21, 25, 31, 37, 40, 48 and 50, are already included in the list of material for P-0613 that the Prosecution seeks to formally submit into evidence.

Kind regards,
 Anton Steynberg

From: Mascetti, Daria [REDACTED]
Sent: 01 March 2022 19:25
To: Trial Chamber III Communications <TrialChamberIIICommunications[REDACTED]>; OTP KEN art70 [REDACTED]
 [REDACTED]
Cc: D32 Gicheru Defence team <D32GicheruDefenceteam[REDACTED]>; [REDACTED]
 [REDACTED] Associate Legal Officer-Court Officer <AssociateLegalOfficer-CourtOfficer[REDACTED]>
Subject: Defence List of items for submission into evidence - P-0613

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

On behalf of Mr. Karnavas, please find enclosed the List of items the Defence formally requests to be submitted into evidence for Witness P-0613 in accordance with paragraph 17 of the Directions (ICC-01/09-01/20-189).

Sincerely yours,
 Daria Mascetti

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[REDACTED]

From: Mascetti, Daria
Sent: 01 March 2022 19:25
To: Trial Chamber III Communications; OTP KEN art70 [REDACTED]
Cc: D32 Gicheru Defence team; [REDACTED] Associate Legal Officer-Court Officer
Subject: Defence List of items for submission into evidence - P-0613
Attachments: 220301 - Defence List of Evidence for admission into evidence.pdf

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

On behalf of Mr. Karnavas, please find enclosed the List of items the Defence formally requests to be submitted into evidence for Witness P-0613 in accordance with paragraph 17 of the Directions (ICC-01/09-01/20-189).

Sincerely yours,
Daria Mascetti

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ICC-01/09-01/20

THE PROSECUTOR V. PAUL GICHERU

List of items the Defence formally requests to be admitted into evidence for Witness P-0613

	ERN Number	Title	Type	Date	Relevant excerpt if necessary	Admission into evidence
1.	KEN-OTP-0157-2975	Translation / Transcript of Audio/Video Material / f902b8a9-fe16-048f-88c4-d58a0b694ad8.wav	Translation - ENG	3/7/2014		Yes
2.	KEN-OTP-0157-4181	Translation / Transcript of Audio/Video Material / 78b40401-5316-048f-bd24-290211176c3f.wav	Translation - ENG	████ 2014		Yes
3.	KEN-OTP-0157-3948	Translation / Transcript of Audio/Video Material / f5aecb26-9b16-048f-8d1c-000774831056.wav	Translation - ENG	25/6/2014		Yes
4.	KEN-OTP-0148-0929	Translation / Transcript of Audio / Video Material	Translation - ENG	████ 2014		Yes

5.	KEN-OTP-0155-5292	Translation / Transcript of Audio/Video Material / a62af5cd-4916-048f-a0ef-71e578411682.wav	Translation - ENG	■2014		Yes
6.	KEN-OTP-0157-2659	Translation / Transcript of Audio/Video Material / 1f14879a-9d16-048f-a763-3d25ebdef845.wav	Translation - ENG	17/7/2014		Yes
7.	KEN-OTP-0159-0098	Translation / Transcript of Audio/Video Material / f77ed514-3116-048f-ad70-be099af945b8.wav	Translation - ENG	28/6/2014		Yes
8.	KEN-OTP-0157-4087	Translation / Transcript of Audio/Video Material / 141e76a5-5916-048f-80ae-01499942ea46.wav	Translation - ENG	27/6/2014		Yes
9.	KEN-OTP-0157-2925	Translation / Transcript of Audio/Video Material / 7c89e8b6-b216-048f-a448-b05a8b89891c.wav	Translation - ENG	30/6/2014		Yes
10.	KEN-OTP-0157-3006	Translation / Transcript of Audio/Video Material / 673d567b-7916-048f-82f0-edea5e14a720.wav	Translation - ENG	■2014		Yes
11.	KEN-OTP-0157-2552	Translation / Transcript of Audio/Video Material / 81db305d-3f16-048f-866f-9ac8c22e5945.wav	Translation - ENG	11/7/2014		Yes
12.	KEN-OTP-0157-4119	Translation / Transcript of Audio/Video Material / 782f7f69-7516-048f-9490-6dc78c41fb7d.wav	Translation – ENG	27/6/2014		Yes

13.	KEN-OTP-0157-3032	Translation / Transcript of Audio/Video Material / fc210247-fe16-048f-b0e2-ba763861dfa3.wav	Translation - ENG	██████████2014		Yes
14.	KEN-OTP-0157-3244	Translation / Transcript of Audio/Video Material / 1b03c4bc-9816-048f-8f0c-e92a67577320.wav	Translation – ENG	██████████2014		Yes
15.	KEN-OTP-0111-0557	WITNESS STATEMENT	ICC Statement – General	██████████		Yes
16.	KEN-OTP-0118-0137	WITNESS STATEMENT	ICC Statement - General	██████████		Yes
17.	KEN-OTP-0117-0897	INVESTIGATOR'S REPORT / Telephone conversation with ██████████	ICC Investigation notes / report / correspondence	██████████		Yes
18.	KEN-OTP-0102-0178	WITNESS STATEMENT	ICC Statement - General	██████████		Yes
19.	KEN-OTP-0106-0910	WITNESS STATEMENT	ICC Statement - General	██████████		Yes
20.	KEN-OTP-0138-0537	INVESTIGATOR'S REPORT / ██████████	ICC Investigation notes / report / correspondence	██████████		Yes
21.	KEN-OTP-0111-0162	WITNESS STATEMENT	ICC Statement - General	██████████		Yes
22.	KEN-OTP-0153-0041	INVESTIGATOR'S REPORT / Phone conversation with ██████████	ICC Investigation notes / report / correspondence	██████████		Yes

23.	KEN-OTP-0117-0930	Investigator's report / phone call with [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
24.	KEN-OTP-0140-0117	INVESTIGATOR'S REPORT / Phone call with [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
25.	KEN-OTP-0115-0216	WITNESS STATEMENT	ICC Statement – General	[REDACTED]		Yes
26.	KEN-OTP-0117-0931	INVESTIGATOR'S REPORT / Meeting with [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
27.	KEN-OTP-0129-0298	KEN [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
28.	KEN-OTP-0149-0308	KEN- [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
29.	KEN-OTP-0157-3278	Translation / Transcript of Audio/Video Material / a6702a8d-4816-048f-95c1-33ec18df4959.wav	Translation - ENG	30/7/2014		Yes
30.	KEN-OTP-0157-3584	Translation / Transcript of Audio/Video Material / a27defdc-d716-048f-89dc-8e2e75604a10.wav	Translation – ENG	15/8/2014		Yes
31.	KEN-OTP-0160-0609	WITNESS STATEMENT	ICC Statement - General	[REDACTED]		Yes
32.	KEN-OTP-0153-0048	INVESTIGATOR'S REPORT / Phone conversation with [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes

33.	KEN-OTP-0117-0898	INVESTIGATOR'S REPORT / Phone calls to [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
34.	KEN-OTP-0117-0901	Investigator's Report / [REDACTED] [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
35.	KEN-OTP-0129-0297		ICC Investigation notes / report / correspondence	23/2/2013		Yes
36.	KEN-OTP-0106-0248	INVESTIGATOR'S REPORT / Meetings reported [REDACTED] [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
37.	KEN-OTP-0160-1362	Translation / Transcript of Audio / Video Material / KEN-OTP- 0111-0556 - Track 16 - Enhanced	Translation - ENG	[REDACTED]		Yes
38.	KEN-OTP-0117-1055	KEN-OTP-[REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
39.	KEN-OTP-0117-0915	Investigator's report / Meeting with [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
40.	KEN-OTP-0097-0068	WITNESS STATEMENT	ICC Statement – General	[REDACTED]		Yes
41.	KEN-OTP-0107-0288	Investigator's Report / Phone call to [REDACTED]	ICC Investigation notes / report / correspondence	[REDACTED]		Yes
42.	ICC-01/09-01/20-T-041	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	5/9/2014	p. 65, lines 11 to 23, p. 77, lines 2-7	Yes
43.	ICC-01/09-01/20-T-042	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	8/9/2014	p. 32, lines 11 to p. 33, lines 14;	Yes

					p. 34, line 25 to p. 35, line 2	
44.	ICC-01/09-01/20-T-043	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	9/9/2014	p. 41, lines 7-9; p. 64, lines 3-9; p. 66, lines 4-12; p. 68, lines 1-5, p. 73, lines 13-14	Yes
45.	ICC-01/09-01/20-T-003	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	23/9/2014	p. 42, lines 5-9; p. 59, lines 3-25	Yes
46.	ICC-01/09-01/20-T-004	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	24/9/2014	p. 18, lines 6-19	Yes
47.	ICC-01/09-01/20-T-016	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	18/9/2014	p. 63, p. 64, lines 5-7	Yes
48.	KEN-OTP-0087-0315	WITNESS STATEMENT	ICC Statement – General	████████		Yes
49.	ICC-01/09-01/20-T-015	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	20/6/2014	p. 95, lines 1-4	Yes
50.	KEN-OTP-0109-0360	Witness Statement	ICC Statement - General	████████		Yes
51.	KEN-OTP-0129-0546	Investigator's report	ICC Investigation notes / report / correspondence	████████		Yes
52.	KEN-OTP-0132-0002	OTP Witness Related Expenses ████████	ICC Witness Related Expenses	16/6/2014		Yes

53.	KEN-OTP-0157-4005	Translation / Transcript of Audio/Video Material / 8a18ebba-b916-048f-84cd-70054756842d.wav	Translation - ENG	████████		Yes
54.	ICC-01/09-01/20-T-046	Transcript of Testimony in <i>Ruto&Sang</i>	TRANSCRIPT	15/9/2014	p.49, lines 21-25	Yes
55.	KEN-OTP-0150-0615	INVESTIGATOR'S REPORT / Telephone contact with ██████████	ICC Investigation notes / report / correspondence	████████		Yes