

Annex 1

Public Redacted

From: Trial Chamber VI Communications [REDACTED]
Sent: 24 November 2022 11:59
To: FS Items Communication [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED] D33 Said Defence Team
 [REDACTED] Said LRV Team OPCV [REDACTED]
 [REDACTED] Trial Chamber VI Communications
 [REDACTED]
Subject: SAID - Decision on Submitted Materials for P-2105

Dear Parties and participants and the Registry

On 1 November 2022, the Prosecution requested that the Chamber recognise 43 items as formally submitted (Email from the Prosecution, at 11:01).

On 1 November 2022, the Defence requested that the Chamber recognise 19 items as formally submitted (Email from the Defence, at 15:10).

On 3 November 2022, the Prosecution responded to the Defence objecting to the submission of items 9, 18 and 19 of the Defence's List (Email from the Prosecution, at 15:51).

On 4 November 2022, the Defence replied to the Prosecution's objections. Therein it noted, *inter alia*, that it no longer sought formal submission of items 18 and 19 (Email from the Defence, at 11:03).

Items Requested by the Prosecution

With regard to the items submitted by the Prosecution, the Chamber notes that all items were discussed in one form or another during the witness's testimony. Similarly, the Chamber observes that the Defence does not oppose any of the items requested by the Prosecution to be submitted. Accordingly, the Chamber recognises all items in the Prosecution's email dated 1 November 2022 at 11:01 as formally submitted. That notwithstanding, the Chamber notes that items 7, 8, 9, 12, 13, 19 and 22 have already been deemed formally submitted by the Chamber through other witnesses/means.

Items Requested by the Defence

First, the Chamber notes that items 3, 4, 5, 11 and 13 on the Defence's List have also sought to be submitted by the Prosecution. The Chamber notes that once an item has been recognised as formally submitted, it will not rule on this item again.

Second, the Chamber notes that the Prosecution does not object to items 1-2, 6-8, 10, 12, 14-17 on the Defence's List. The Chamber notes that all items were discussed in one form or another during the witness's testimony.

Furthermore, the Chamber observes that for item 10 (CAR-OTP-2074-0267) the Defence only requests one specific page of the item to be submitted. In accordance with its earlier rulings, the Chamber recognises the entirety of the document as formally submitted.

Accordingly, the Chamber recognises items 1-2, 6-8, 10, 12, 14-17 on the Defence's List as formally submitted.

The Chamber will now turn to the item sought by the Defence for formal submission which is objected to by the Prosecution.

Item 9 on the Defence List

In its response to the Defence's List of Items, the Prosecution makes general submissions to the effect that prior recorded testimony cannot be sought submission of through the formal submission of evidence procedure. Furthermore, the Prosecution submits that this item does not require to be introduced into evidence as it is 'sufficient and appropriate to consider the relevant transcripts of P-2105's testimony rather than these documents, as the transcripts record in what way and which specific parts of these documents were cited and referred to by the Defence to Witness P-2105'.

In reply, the Defence notes that a screening note is a document created by the Prosecution, it is not signed by the individual and does not constitute prior recorded testimony. Rather it is an internal document of the Office of the Prosecutor which can be submitted through the formal submission of evidence procedure.

The Chamber agrees with the Defence that this document, and indeed screening notes in general, do not constitute prior recorded testimony within the meaning of rule 68 of the Rules of Procedure and Evidence. These documents are not formal statements by a witness but rather constitute documents prepared by the Prosecution, with a view to determining whether to take a formal statement from an individual. Indeed, the Chamber notes that these documents are not signed by the person or otherwise record their understanding that they gave testimony.

Accordingly, the Chamber rejects the Prosecution's objections and recognises item 9 on the Defence's List of Items (CAR-OTP-2078-0031) as formally submitted.

Conclusion

In short, given the absence of procedural bars, the Chamber recognises the following items as formally submitted (*see tables below*).

Kind regards,
Trial Chamber VI

Items submitted by the Prosecution

ERN
CAR-OTP-2081-0062-R01
CAR-OTP-2081-0062-R02
CAR-OTP-2081-0065
CAR-OTP-2081-0066
CAR-OTP-2033-7718
CAR-OTP-2033-6811
CAR-REG-0002-0036
CAR-OTP-2033-6820
CAR-REG-0002-0037
CAR-REG-0002-0038
CAR-REG-0002-0039
CAR-OTP-2069-3222

CAR-REG-0002-0040
CAR-OTP-2069-3225
CAR-REG-0002-0041
CAR-REG-0002-0042
CAR-REG-0002-0043
CAR-OTP-2069-3228
CAR-REG-0002-0044
CAR-OTP-2069-3245
CAR-REG-0002-0045
CAR-OTP-2047-0334
CAR-OTP-2069-1990
CAR-REG-0002-0050
CAR-OTP-2069-0671
CAR-REG-0002-0051
CAR-REG-0002-0049
CAR-OTP-2069-2179
CAR-REG-0002-0052
CAR-OTP-2069-1056
CAR-REG-0002-0053
CAR-OTP-2023-0646-R01
CAR-OTP-2023-0646-R02
CAR-REG-0002-0046
CAR-REG-0002-0047
CAR-REG-0002-0048
CAR-OTP-2070-0268
CAR-REG-0002-0035

Items submitted by the Defence

ERN
CAR-OTP-2067-0277-R01
CAR-REG-0002-0054
CAR-REG-0002-0035
CAR-OTP-2081-0066
CAR-OTP-2081-0065
CAR-OTP-2081-0063
CAR-OTP-2054-1374
CAR-OTP-2034-1824
CAR-OTP-2078-0031-R01
CAR-OTP-2078-0031-R02
CAR-OTP-2074-0267
CAR-OTP-2069-3222
CAR-OTP-2068-0495
CAR-OTP-2082-0458
CAR-OTP-2130-7974
CAR-OTP-2088-3189
CAR-OTP-2130-0126
CAR-OTP-00000440

From: Bittaye, Ramu Fatima
Sent: 01 November 2022 11:01
To: Trial Chamber VI Communications
Cc: OTP CAR IIA Communications; D33 Said Defence Team; Said LRV Team OPCV; Associate Legal Officer-Court Officer
Subject: 221101 - Request for formal submission of evidence used in the Prosecution's examination of P-2105

Dear all,

Dear Trial Chamber VI,

In line with the procedure outlined in paragraph 22 of the Directions on the Conduct of Proceedings (ICC-01/14-01/21-251), the Prosecution requests the formal submission of evidence used in its examination of Witness P-2105 listed in this email.

No.	ERN (E-Court)	Registration number of the version marked by the witness	Description	Confidentiality
1.	CAR-OTP- 2081-0062- R01		Annex 1 to Second Witness Statement: [REDACTED] [REDACTED]	Confidential
2.	CAR-OTP- 2081-0065		Annex 3 to Second Witness Statement: [REDACTED] [REDACTED]	Confidential
3.	CAR-OTP- 2081-0066		Annex 4 to Second Witness Statement: [REDACTED] [REDACTED]	Confidential
4.	CAR-OTP- 2033-7718		Photo of OCRB – outside facing gate	Confidential
5.	CAR-OTP- 2033-6811	CAR-REG-0002- 0036	Photo of OCRB – inside compound	Confidential
6.	CAR-OTP- 2033-6820	CAR-REG-0002- 0037	Photo of OCRB – inside compound	Confidential
7.	CAR-OTP- 2033-7154		Photo of OCRB – building	Confidential

8.	CAR-OTP-2033-6871	CAR-REG-0002-0038	Photo of OCRB – block A cell	Confidential
9.	CAR-OTP-2033-7064	CAR-REG-0002-0039	Photo of OCRB – block B cell	Confidential
10.	CAR-OTP-2069-3222	CAR-REG-0002-0040	Photo of OCRB handover ceremony	Confidential
11.	CAR-OTP-2069-3225	CAR-REG-0002-0041	Photo of OCRB handover ceremony	Confidential
12.	CAR-OTP-2069-3226	CAR-REG-0002-0042	Photo of OCRB handover ceremony	Confidential
13.	CAR-OTP-2069-3227	CAR-REG-0002-0043	Photo of OCRB handover ceremony	Confidential
14.	CAR-OTP-2069-3228	CAR-REG-0002-0044 Marked anew by witness – previous disappeared due to technical glitch on CMS software	Photo of OCRB handover ceremony	Confidential
15.	CAR-OTP-2069-3245	CAR-REG-0002-0045	Photo of OCRB handover ceremony	Confidential
16.	CAR-OTP-2047-0334		Photo shown to P-2105 during his second interview [REDACTED] [REDACTED]	Public
17.	CAR-OTP-2069-1990	CAR-REG-0002-0050	Photo depicting [REDACTED] [REDACTED]	Confidential
18.	CAR-OTP-2069-0671	CAR-REG-0002-0051	Photo depicting [REDACTED]	Confidential

19.	CAR-OTP-2114-0323	CAR-REG-0002-0049	Photo depicting [REDACTED]	Confidential
20.	CAR-OTP-2069-2179	CAR-REG-0002-0052	Photo depicting [REDACTED]	Confidential
21.	CAR-OTP-2069-1056	CAR-REG-0002-0053	Photo depicting [REDACTED]	Confidential
22.	CAR-OTP-2082-0458		Liste Generale Elements OCRB Central	Confidential
23.	CAR-OTP-2023-0646-R01	CAR-REG-0002-0046 - page 2023-0646 CAR-REG-0002-0047 – page 2023-0646 CAR-REG-0002-0048 – page 2023-0647	Liste des elements comite extraordinaire pour la defense des acquis democratiques (CEDAD) identifies	Confidential
24.	CAR-OTP-2070-0268	CAR-REG-0002-0035	Map of the CAR [Annotated by Witness]	Confidential

Best regards,

Ramu Fatima Bittaye

From: Allix, Léa [REDACTED]
Sent: 04 November 2022 11:03
To: Trial Chamber VI Communications
Cc: OTP CAR IIA Communications; Said LRV Team OPCV; D33 Said Defence Team;
 Bittaye, Ramu Fatima; Associate Legal Officer-Court Officer
Subject: RE: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-2105

Chère Chambre de première instance VI,

En application du paragraphe 22(ii) de la décision sur la conduite des débats du 9 mars 2022 (ICC-01/14-01/21-251), la Défense soumet la réponse suivante aux observations formulées par l'Accusation dans son email du 3 novembre 2022.

1) Concernant le compte-rendu de la préparation du témoin (CAR-OTP-00000426-R01 et CAR-OTP-00000425-R01):

A la lumière des décisions orales rendues par la Chambre le 2 novembre 2022 (ICC-01/14-01/21-T-030-FRA RT, p.35, l.1-13) et le 3 novembre 2022 (ICC-01/14-01/21-T-031-FRA RT, p.57, l.1 à p.59, l.10) clarifiant le mode de soumission des compte-rendu de préparation, la Défense ne requiert plus l'admission au dossier de l'affaire du compte-rendu de préparation du témoin P-2105 (CAR-OTP-00000426-R01 pour sa version française et CAR-OTP-00000425-R01 pour sa version anglaise).

2) Concernant le compte-rendu d'entretien préalable (CAR-OTP-2078-0031-R02):

Pour ce qui est du compte-rendu d'entretien préalable (*Screening note*) CAR-OTP-2078-0031-R02, la Défense relève qu'il s'agit d'un document rédigé par les membres du Bureau du Procureur qui ont procédé au *screening* d'une, comme l'a expliqué P-3108, avant même toute décision sur le fait de prendre une déclaration antérieure formelle de la personne en vue de son éventuelle participation comme témoin dans la procédure. Ce document n'a pas été relu à la personne et la personne n'a pas signé ce document, qui ne peut donc en aucun cas être assimilable à une déclaration antérieure. Par conséquent, la Décision de la Chambre rendue par email le 31 octobre 2022 à 14:49 sur le mode de soumission des déclarations antérieures ne s'applique pas à ce type de document.

Pour la Défense, une *screening note* est un document interne du Bureau du Procureur, comme un rapport d'enquêteur qui peut être soumis au dossier comme élément de preuve par le truchement d'un témoin. A ce propos la Défense relève que l'Accusation ne s'oppose pas à la soumission au dossier de l'affaire des rapports d'enquêteurs CAR-OTP-00000440, CAR-OTP-2130-0126 ou CAR-OTP-2130-7974 qui ont été soumis et discutés avec le témoin en audience.

Bien à vous,

Lea Allix

From: Bittaye, Ramu Fatima [REDACTED]
Sent: 03 November 2022 15:51
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED] Said LRV Team OPCV [REDACTED]
 [REDACTED]; D33 Said Defence Team [REDACTED] Associate Legal Officer-Court Officer [REDACTED]
Subject: RE: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-2105

Dear Trial Chamber VI,

The Prosecution objects to the Defence's submission of CAR-OTP-2078-0031-R02, CAR-OTP-00000426-R01 and CAR-OTP-00000425-R01 (items 9, 18 and 19 of the Defence's list), which are P-2105's screening note and the annex of his witness preparation log.

The Prosecution recalls that pursuant to the Chamber's decision of 31 October 2022 (e-mail at 14:49), the Parties are instructed to "not seek submission of items constituting prior recorded testimony through the formal submission of evidence procedure". In this regard, the Defence acknowledges that annexes of witness preparation logs are prior recorded testimony (see T-030, 32:22-33:3). Therefore, items 18 and 19 of the Defence's list should not have been included in the first place, and these two documents should be rejected for this reason alone as it is in clear violation of the Chamber's decision.

The Prosecution further submits that all three items do not require to be introduced into evidence. As explained previously, in so far as these documents were used by the Defence to question Witness P-2105, it is sufficient and appropriate to consider the relevant transcripts of P-2105's testimony rather than these documents, as the transcripts record in what way and which specific parts of these documents were cited and referred to by the Defence to Witness P-2105, including the answers he gave.

Kind regards,

Ramu Fatima Bittaye

From: Allix, Léa [REDACTED]
Sent: 01 November 2022 15:10
To: Trial Chamber VI Communications [REDACTED]
Cc: OTP CAR IIA Communications [REDACTED]; Said LRV Team OPCV [REDACTED]
 [REDACTED] D33 Said Defence Team [REDACTED] Associate Legal Officer-Court
 Officer [REDACTED]
Subject: Mise en oeuvre du paragraphe 22 de la décision ICC-01/14-01/21-251/ P-2105

Chère Chambre de première instance VI,

En application du paragraphe 22 de la décision ICC-01/14-01/21-251 sur la conduite des débats, la Défense de Monsieur Said demande respectueusement à ce que soient formellement versés au dossier de l'affaire les éléments soumis par le truchement du témoin P-2105 en audience tels qu'indiqués dans la liste en pièce jointe.

Bien à vous,

Léa Allix

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Affaire ICC-01/14-01/21
Le Procureur c. Monsieur Said Abdel Kani

Liste des éléments soumis par le truchement du témoin P-2105 dans le cadre de son témoignage en audience et pour lesquels la Défense demande la soumission formelle au dossier de l'affaire en application du paragraphe 22 de la décision ICC-01/14-01/21-251.

N°	Doc ID	Titre	Demande la soumission de :
1	CAR-OTP-2067-0277-R01	FICHE INDIVIDUELLE	Tout le document
2	CAR-REG-0002-0054		Tout le document
3	CAR-REG-0002-0035		Tout le document
4	CAR-OTP-2081-0066	ANNEX IV / IDENTIFICATION	Tout le document
5	CAR-OTP-2081-0065	ANNEX III / [REDACTED]	Tout le document
6	CAR-OTP-2081-0063	ANNEX IIA - ANNEX IIB / [REDACTED] [REDACTED]	Tout le document
7	CAR-OTP-2054-1374	Bangui : Le CST transformé en CNT / Bangui : Les opérations de désarmement se poursuit avec d'énormes difficultés	Tout le document
8	CAR-OTP-2034-1824	COMMUNIQUE RADIO / [REDACTED]	Tout le document
9	CAR-OTP-2078-0031-R02	SCREENING NOTE	Tout le document
10	CAR-OTP-2074-0267		p.0267
11	CAR-OTP-2069-3222	P8301175.JPG	Tout le document
12	CAR-OTP-2068-0495	SITUATION DES PAYES DES ELEMENTS DU BSS (2ème paye)	Tout le document
13	CAR-OTP-2082-0458	LISTE GENERALE ELEMENTS OCRB CENTRAL	Tout le document
14	CAR-OTP-2130-7974	INVESTIGATION REPORT / [REDACTED] [REDACTED]	Tout le document
15	CAR-OTP-2088-3189		Tout le document

16	CAR-OTP-2130-0126	Title INVESTIGATION REPORT / CARIIB Investigation / Additional Information regarding P-2105	Tout le document
17	CAR-OTP-00000440	INVESTIGATION REPORT / Additional disclosable information regarding P-2105	Tout le document
18	CAR-OTP-00000426-R01	ANNEXE A au Registre de préparation des témoins pour la préparation de P-2105	p.2
19	CAR-OTP-00000425-R01	ANNEX A to the Witness Preparation Log for the Preparation of P-2105	p.2